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U.S. Advisory Council on Unemployment Compensation

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January 1996

Advisory
Council on
Unemployment
Compensation

Defining Federal and State Roles in Unemployment Insurance

A Report to the President and Congress

DEFINING FEDERAL AND STATE ROLES IN UNEMPLOYMENT INSURANCE

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A Report to the President and Congress

Advisory Council on Unemployment Compensation
Washington, DC

1996

Advisory Council on Unemployment Compensation

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January 10, 1996

To the President and the Congress:

The Advisory Council on Unemployment Compensation submits to you its third report, *Defining Federal and State Roles in Unemployment Insurance*, in accordance with the provisions of Section 908 of the Social Security Act, as amended by the Emergency Unemployment Compensation Act of 1991 (P.L. 102-164).

This report completes the Council's review of the nation's Unemployment Insurance (UI) system. We have examined the program carefully and have, I believe, produced a series of thoughtful and comprehensive reports and recommendations on the most crucial issues facing the system. We have held public hearings in many parts of the country and have considered the views of workers and employers, as well as those of state and federal government officials.

We believe that our analysis of the Unemployment Insurance system is particularly relevant to the current national debate over federal-state roles in program design and execution. The Unemployment Insurance program is one of the oldest federal-state programs, and it has been one of the most successful examples of partnership between the federal government and the states. Because of the importance of this successful partnership, we have reviewed the system's governing structure to develop a coherent, rational basis for defining the future roles of the federal and state governments in the UI program. We believe this conceptual framework can provide insights for the realignment of governing structures for other programs as well.

In the course of examining federal and state roles, we documented several fundamental problems in the Unemployment Insurance system, and have made recommendations to correct them. We have found, for example, that competitive pressures among the states have at times reduced the solvency of their Unemployment Insurance trust funds, and we have made a series of recommendations to ensure the forward funding of state programs. Further, we have found that these funding problems have frequently resulted in restrictions on worker

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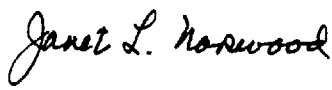
eligibility for benefits and that these restrictions have often had a disproportionately adverse effect on low-wage and part-time workers.

The Council proposes several changes to address these problems. In addition, in order to put the programs in all states on a more equal footing, we favor an increase in the base wage for tax purposes to $9,000, with future alignment to the change in average wages, and the elimination of the special temporary 0.2 percent federal administrative tax enacted some years ago.

The Council made a number of recommendations in its first two reports. We believe that those, together with the recommendations in this report, will modernize the Unemployment Insurance program and improve the efficiency and equity with which it operates.

My colleagues on the Council and I have appreciated the opportunity to share our views on the Unemployment Insurance system with you. We hope that the findings and recommendations produced by the Council will provide accurate, insightful, and useful information to policymakers for years to come.

Sincerely,



Janet L. Norwood
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Preface

IN NOVEMBER 1991, THE CONGRESS of the United States passed the Emergency Unemployment Compensation Act (P.L. 102-164). The act included a section that created the Advisory Council on Unemployment Compensation, which was charged with the task of evaluating "the unemployment compensation program, including the purpose, goals, countercyclical effectiveness, coverage, benefit adequacy, trust fund solvency, funding of State administrative costs, administrative efficiency, and any other aspects of the program and to make recommendations for improvement."

The Advisory Council is made up of eleven members, who represent the interests of business, labor, state governments, and the public. Five of the members are appointed by the President, three are appointed by the Senate, and three by the House of Representatives.

In carrying out its mandate to evaluate and analyze the Unemployment Insurance system, the Advisory Council has relied on diverse sources of information. It received regular briefing materials from its staff, and held a series of public hearings across the country so that interested individuals and organizations might present their views. In addition, the Council convened a number of academic conferences to facilitate the exchange of ideas and the presentation of research work on the subject of unemployment insurance. The latter forums included two economic research conferences (in August 1994 and August 1995), and a legal symposium (in March 1995) sponsored jointly with the University of Michigan *Journal of Law Reform.*

This report, the Council's third and final, has two sections. Section I presents the Council's findings and recommendations on the subject of federal and state roles in the Unemployment Insurance system. Section II contains a broad,

background discussion of issues related to the roles of the federal and state governments and the administration of the Unemployment Insurance system.

The chapters in Section II include both original research and syntheses of existing information. The primary authors of Section II are Laurie J. Bassi, Amy B. Chasanov, Stacey G. Grundman, Eileen Cubanski, and Daniel P. McMurrer. The section of Chapter 8 describing the results of the appeals case studies was written by Anne L. Gallagher and Sarah P. Ralph.

Acknowledgments

AS IT COMPLETES THE TASK with which it was charged by Congress, the Advisory Council on Unemployment Compensation applauds the work of its staff for the three years of its existence. Staff research on policy issues has been clear and insightful, and administrative work to coordinate Council meetings and research conferences has been superb. Special thanks and all of our best wishes are extended to the members of the Council staff, past and present:

Laurie J. Bassi, *Executive Director*

Ellen S. Calhoun
Amy B. Chasanov
Eileen Cubanski
Janice C. Davis
Stacey G. Grundman
Daniel P. McMurrer
Robert Pavosevich
Stephen A. Woodbury

The Council also commends its researchers, Anne L. Gallagher and Sarah P. Ralph, whose field study of the Unemployment Insurance appeals system is discussed in this report. In addition, we extend our thanks to Fu Associates for their computer programming support; to our editor, Dorothy M. Sawicki; to graphic designers Samuel Shelton, Jeffrey Fabian, and Scott Rier of Kinetik Communication Graphics; to our computer guru, Carlos Soto-Garcia; and to our designated federal official, Esther R. Johnson.

We would also like to thank the many people at the U.S. Department of Labor and in the states who have shared their time, ideas, and information with us. Finally, we recognize the contributions of all of the Unemployment Insurance experts, researchers, and practitioners who have shared their research and testified at Council hearings.

SECTION I

FINDINGS AND RECOMMENDATIONS

1 / Introduction

THE ADVISORY COUNCIL ON UNEMPLOYMENT COMPENSATION submits this final report to the President and Congress in the midst of an ongoing debate about the distribution of responsibilities and powers between the federal government and state governments. A similar debate has occurred throughout the history of the Unemployment Insurance (UI) program, which was created under Title III of the Social Security Act of 1935.

The Council has been mindful of developments during its final year of deliberations. Its work over the past year has revealed both opportunities and perils associated with the types of shifts in federal and state responsibilities and powers that are under way. It is certainly possible to improve the efficiency of important government programs, and in many ways, the UI program can provide a useful model in this regard. At the same time, however, the Council's research (summarized in Chapter 4 of this report) indicates a basis for concern that competitive pressures among the states to attract and retain business will lead to a continued deterioration in the percentage of the unemployed who receive benefits.

Earlier research conducted by the Council showed that this phenomenon disproportionately affects low-wage workers. When states experience a trust fund solvency problem, they often tighten their eligibility requirements. Furthermore, at times the federal government has created incentives that have had the effect of causing states to restrict eligibility for the program. Both of these developments have had a disproportionate effect on low-wage workers. Recommendations in the Council's 1995 report suggested a number of changes that would address these problems.

The final year of the Council's deliberations on the Unemployment Insurance system focused on methods that could be used to rationalize federal-state relations within that system, thereby contributing to improvements in the administration of the program. In brief, the Council finds that in some critical respects, the states face political and fiscal pressures to restrict their UI programs in a fashion which undercuts important national interests. In other respects, the states are subjected to detailed federal oversight which does not fully reflect the administrative capabilities of state agencies. The findings and recommendations resulting from the Council's deliberations are summarized in Chapter 2, and should be considered together with the findings and recommendations that the Council presented in its first and second annual reports. (See Appendices E and F in this volume for the 1994 and 1995 Findings and Recommendations, respectively.)

The Council is of the view that many important questions about how best to administer the nation's UI system can be resolved by establishing a coherent, rational basis for defining the role of both the federal and state governments in the system. This report's findings and recommendations are derived from a conceptual framework that builds upon the insights of both political science and economics. This framework is based on the premise that the federal government's role should be limited to those areas of policy that meet two criteria: (1) an essential national interest exists; and (2) states' interests may diverge from those national interests. Responsibilities for those areas of policy that do not meet both of these criteria should reside with the state governments, and federal oversight in these areas should be reduced or eliminated.

The recommendations that follow from this framework suggest important ways in which the U.S. Department of Labor could most effectively exercise its responsibilities in administering the Unemployment Insurance program, while simultaneously honoring the shared responsibilities and powers of the federal and state partners. The implications of the report's conceptual framework can also be applied to programs other than the Unemployment Insurance program.

ORGANIZATION OF THIS REPORT

Section I of this report includes two chapters. Following this introduction, Chapter 2 presents the current findings and recommendations of the Advisory Council. Section II, comprising Chapters 3 through 9, then offers

more detailed explorations of a number of Unemployment Insurance issues related to the findings and recommendations.

Beginning the second section, Chapter 3 addresses the issue of federal-state relations in the Unemployment Insurance system. Chapter 4 discusses the overall evolution of the system, focusing on some of the components of the system that have changed over time and exploring a number of potential explanations for those changes.

Issues in the financing of Unemployment Insurance are addressed in Chapter 5. The use of performance standards is the topic of Chapter 6, and experience rating is addressed in Chapter 7. Issues in nonmonetary determinations, denials, and appeals are discussed in the final two chapters, with Chapter 8 focusing on trends in those areas, and Chapter 9 focusing on an analysis of those trends.

The appendices of the report present the following information: a discussion of technical issues in the analyses contained in Chapters 4 and 9 of this report, background tables and figures on financing and benefit issues, the 1994 and 1995 findings and recommendations of the Council, the charter of the Council, and information regarding the calendar and public hearings of the Council.

2 / Findings and Recommendations

THE NATION'S UNEMPLOYMENT INSURANCE system is based on the sharing of responsibilities between the federal government and the state governments. The Council finds that this framework, which has evolved over 60 years, could be made more effective by implementing changes based on a refined understanding of the appropriate division of responsibilities between the federal and state partners. This finding leads the Council to a formulation of the following statement of federal-state responsibilities in Unemployment Insurance.

1. Federal-State Responsibilities in Unemployment Insurance

Unemployment Insurance is a federal-state system of shared responsibilities and powers. These powers and responsibilities should be shared in the most effective possible manner. Whenever appropriate, state governments should assume broad responsibilities for determining the elements of their Unemployment Insurance programs. The federal government should assume responsibility primarily in those areas in which both an essential national interest exists and states' interests may diverge from those national interests.

The fundamental objective of the system is the provision of insurance in the form of temporary, partial wage replacement to workers experiencing involuntary unemployment. Federal involvement in this area should limit that competition among states on the basis of Unemployment Insurance costs that undermines the integrity of the system and the capacity of the program to insure workers adequately. A second objective of the system is the accumulation of adequate funds

during periods of economic health, thereby promoting economic stability by maintaining consumer purchasing power during economic downturns. The achievement of these fundamental purposes, which serve the national interest and transcend the interests of any individual state, require federal oversight and action.

FEDERAL-STATE INTERACTIONS

Federal Responsibility in Areas of Essential National Interest

As noted above, there are two primary areas of essential national interest that may diverge from state interests: the provision of adequate insurance to workers throughout the country and macroeconomic stabilization. The program's capacity to meet these two fundamental objectives first depends upon the existence of state UI programs, and second, requires the proper functioning of a number of specific program components, each of which can be eroded through the dynamics of interstate competition. The components are enumerated in this section and are discussed in detail in Chapter 3 of this report.

The Council finds evidence that escalating competition among some states to attract and retain business may result in UI tax rates that are lower than they would be without this competition (see Chapter 4 of this report). Reduced state UI taxes frequently result in tightened eligibility standards, which adversely and disproportionately affect low-wage workers. In addition, tax competition could result in reductions in benefit levels or in diminished access to services.

Consequently, to ensure the achievement of the first national objective—the provision of temporary, partial wage replacement to workers experiencing involuntary unemployment—the federal government should act to prevent any potentially destructive consequences arising from interstate competition. Thus, there are two primary areas in which federal involvement is necessary—minimum eligibility and benefit levels, and access to services.

To assure the achievement of the second national objective—the countercyclical stabilization of the national economy—a unified national strategy is required. Thus, it is the responsibility of the federal government to take action, as necessary, to preserve the four components that enable the program to stabilize the economy during periods of economic downturn. The four components follow. First, state programs should be forward-funded with independent trust funds in order to ensure that the UI system as a whole has the capacity to inject additional money into the economy during recessions and in order to reduce the need to raise taxes during economic downturns.

Second, state UI benefit levels should be high enough and should be paid to a large enough percentage of the involuntarily unemployed to support efficient economic stabilization efforts. Third, the capacity must exist to monitor and analyze national and local labor market conditions consistently and quickly. Fourth, any supplemental mechanism for stabilization (for example, Extended Benefits or contingency administrative funding during times of unusually high unemployment) should be maintained and coordinated at the national level.

Thus, to protect essential national interests, the federal government must take responsibility for protecting specific components of the UI program when autonomous state action might adversely affect the national interest. To preserve the components discussed above, federal involvement is necessary in the seven areas listed in Recommendation 2. In each of these areas, federal requirements should be as clear and as simple as possible.

2. Recommendation

To preserve national interests in the UI system, the federal government should take an active role in the following areas: (1) ensuring the existence of a UI system in each state; (2) promoting the forward funding of the system; (3) monitoring and coordinating the collection of information on labor market conditions; (4) promoting economic stability by maintaining supplemental benefit programs that trigger on automatically during recessions, thereby avoiding the need for costly federal emergency benefits; (5) coordinating the efficient pooling of risk by making loans available to states experiencing prolonged recessions; (6) assuring that all workers with a given level of attachment to the work force are eligible for a minimum level of benefits; and (7) promoting quality and efficiency in program outcomes.

Federal Oversight in Other Areas

While taking a role in the areas listed in Recommendation 2, the federal government should avoid involvement in program areas in which essential national interests are not at stake. Indeed, in these areas, the federal government should take steps to encourage state experimentation and to enhance state flexibility. Program details in such areas are better left to the discretion of the states, which function more efficiently as "laboratories of democracy" and which may be able to provide better service to their citizens. Thus, federal involvement should exist primarily in those areas in which there are essential national interests at stake.

A number of current federal laws, federal regulations, and federal oversight functions affecting UI do not meet these criteria and should therefore be repealed or discontinued. Included are the following: requirements that the states must disqualify certain categories of workers (for example, professional athletes and school employees who are between terms) and reduce unemployed workers' UI benefits if they receive certain other types of retirement income; standards that the states must meet in order to qualify for full Extended Benefits funding (for example, the imposition of a waiting week for benefits and requirements that recipients meet stricter definitions of continuing eligibility); and a variety of oversight functions which are discussed below.

3. Recommendation

Federal requirements that states disqualify certain categories of workers (for example, professional athletes and school employees who are between terms) should be repealed.

4. Recommendation

Federal requirements that certain types of workers' retirement income offset UI benefits should be repealed.

5. Recommendation

Federal requirements that states meet certain standards in order to receive full funding for Extended Benefits should be repealed.

ADMINISTRATIVE ISSUES

Measurement of Performance Outcomes

Performance measures within the UI system should focus on program outcomes rather than on program processes, since the latter are within the purview of the states. In addition, performance requirements should be confined to areas in which there is both an essential national interest and a potential divergence of national and state interests. There is no need to monitor program inputs or state performance in areas in which state and national interests coincide. Moreover, these areas involve program processes rather than program outcomes, which, as stated, should be the responsibility of the states. Some of these areas, including aspects of benefit payment and revenue

collection, are currently regulated by elaborate federal quality control programs (see Chapters 5 and 6).

By selecting only essential measures of performance outcomes, the federal government would underscore the importance of state performance on those particular measures. Currently, the relative importance of various outcomes may be obscured by the large number of performance measurements required of the states. Further, the elimination of unnecessary performance measures should reduce state administrative burdens considerably and would ensure that available resources were dedicated to achieving the outcomes identified as most essential to the functioning of the system. Finally, the selection of clear and easily measured outcomes would promote a better understanding of the Unemployment Insurance system.

The federal government should, however, require the measurement of performance outcomes in essential program areas in which national and state interests may diverge. Some such areas are not currently subject to performance measurement, including forward funding and the ease of claimants' access to the system, which is discussed below.

The Council is aware of the efforts of the Performance Enhancement Work Group, which consists of representatives from the state employment security agencies (SESAs) and the U.S. Department of Labor. This group has been working since 1993 to improve the performance of the UI system by improving the measurement of performance within the system. While this collaborative effort is commendable, additional work needs to be done on the fundamental issues of forward funding and access to the system.

The Council finds that there would be benefit in undertaking a more fundamental re-engineering of UI performance measurement. Such an effort should be based on careful consideration of the basic objectives of the UI program. Required performance measures, as well as the reports on UI that the U.S. Department of Labor requires of the states, should be designed to ensure that the basic objectives of the system are achieved.

The Council finds that four principles should be applied in shaping an appropriate set of outcomes to be measured within the Unemployment Insurance system. First, the measures should reflect the fundamental purposes of the Unemployment Insurance system. Second, performance measures should focus on the system's outcomes, rather than on the amount of input or the processes by which outcomes are achieved. Third, those measures of performance outcomes that are identified as essential should be as clear and simple as possible. Fourth, the application of these measures of performance should ensure equity in the treatment of both claimants and employers.

6. Recommendation

The federal priority in the area of performance measurement should be to ensure that required performance measures emphasize the essential national interests of the UI system. The national interests that could be influenced by the system of performance measurement, but that are not currently incorporated in it, include forward funding and access to the system.

The current federal emphasis on benefit quality control measures is excessive and should be reduced, because ensuring that benefits are not overpaid should be a state rather than a federal responsibility. Similarly, ensuring that UI taxes are collected when they are due is a state responsibility that can be accomplished with minimal federal oversight. Given that employers' tax rates form a critical part of the nation's statistical system, some federal oversight in this regard is appropriate.

7. Recommendation

In cooperation with the U.S. Department of Labor, states should develop, monitor, and report their own measures of the quality of their procedures for UI benefit payment and revenue collection, using generally accepted accounting principles and auditing standards.

8. Recommendation

The U.S. Department of Labor should work in partnership with the states to develop measures of access to the UI system. These measures should include but should not necessarily be limited to the ease with which individuals can apply for benefits and the extent to which individuals with a substantial attachment to the labor force are eligible for benefits.

Factors to be considered in developing measures of the ease with which individuals can apply for benefits should include the following: (1) whether information that clearly explains the application process is readily available, (2) how much time is required to complete the application process, and (3) whether it is possible to apply for benefits in languages commonly spoken by those who are served by the program.

Factors that should be considered in developing measures of access to the UI system include whether individuals with a substantial work history are excluded for any of the following reasons: (1) they have

worked in seasonal jobs, (2) their wages are low, (3) their most recently completed quarter of wages was not included in measuring their monetary eligibility, (4) they quit their job for legitimate family-related reasons, (5) they are unable to accommodate an employer's change in job conditions, (6) they are seeking part-time work, or (7) they are unable to accept shift work.

Inadequate or incomplete information about the UI claims or appeals processes among some claimants may have the effect of restricting their access to the UI system. Similarly, a lack of information or understanding among some employers may result in their being charged for illegitimate claims, resulting in higher UI taxes. In its 1995 report, the Council recommended that states distribute an information packet on eligibility requirements to unemployed individuals. Additional state efforts would also help guarantee that all parties interact equitably—"on a level playing field"—within the UI system. These efforts should be directed at ensuring that claimants and employers enter the system with a common understanding of the nature of relevant proceedings.

9. Recommendation

Each state should establish a mechanism, such as an ombudsman's office, to provide claimants or employers with any requested information on procedures or requirements in the claims or appeals processes.

10. Recommendation

The federal guarantee of a fair hearing should be interpreted to include the unrestricted right of appeals participants to representation of their own choosing. Each state should provide clear notice of this right to all claimants and employers.

11. Recommendation

Each state should provide information to claimants and employers on available sources of advice or advocacy assistance.

Data Needs and Reporting Requirements

Throughout its long history, the UI program has produced a vast amount of information. These UI data are used for a variety of purposes, such as administering the UI program itself, facilitating its interaction with other federal and state programs, and contributing information to the nation's statistical system. For example, the UI tax records and data collected by the states to determine labor force attachment and the earnings of workers cover most of the nation's business establishments and almost all of the nation's workers. These data constitute a large body of administrative information about the labor market and are therefore extraordinarily important.

Individual states use UI information to operate the program, to evaluate efficiencies, and to conduct research on UI issues. The federal UI Service uses the data to monitor the work of the states, to carry out UI research, to administer the system, and to ensure that federal UI program standards have been met. In addition, the Bureau of Labor Statistics (BLS), the statistical arm of the U.S. Department of Labor, relies on the state employment and earnings reports for survey benchmarks, and it uses the UI tax records to form the universe of business establishments for sample surveys.

In spite of these varied uses, little systematic attention has been given to the comparability, accuracy, and completeness of this rich data source. Indeed, the Council frequently found it impossible to obtain comparable state data for analyzing many of the questions it addressed. Further, only occasional attention has been given to the format, editing standards, uniformity of data definition, completeness, and ease of computerized access to the base of information that flows from the UI system.

These conditions are not surprising. Until recently, the informational value of administrative data was not universally recognized. Few have understood the need for the precision and quality control that distinguish a statistical database for research purposes from a program database that ensures the delivery of services. Today, data are increasingly used to monitor the economy and to evaluate public policy, and the value of administrative program records as an efficient and cost-effective source of information with minimal need for additional reporting burden cannot be overlooked. To allow fuller utilization of this resource, the quality and comparability of these administrative data should be improved.

Congress has already taken some steps to meet this need. In 1992, it required the BLS to determine procedures for creating a national longitudinal wage record database with information on earnings, establishment and

industry classification, and geographic location of employment for all workers covered by the UI system. This improved database will be extremely valuable for research, program evaluation, and statistical purposes.

Nor should other survey-based sources of data about the UI system be overlooked. The BLS-sponsored Current Population Survey (CPS) provides a rich body of information about the U.S. labor force, employment, and unemployment. The UI Service, which has occasionally sponsored special supplements of the CPS, should develop a careful plan for regular periodic supplements to collect detailed information on UI recipients.

Another important survey source of data used for UI research is the Survey of Income and Program Participation (SIPP), conducted by the Bureau of the Census. The SIPP provides an important longitudinal database that includes workers who receive UI benefits, as well as those who participate in other federal and state-sponsored programs. While the SIPP provides much important information about the behavior of UI recipients that is not available elsewhere, many researchers find it unwieldy and extremely difficult to use. It is important that SIPP data be made more accessible.

In summary, the Council finds a need for a systematic and comprehensive system of administrative and survey data about the UI program for use in the following areas: (1) analytical research on the program's outcomes, (2) development of improvements in the program's conceptual design, and (3) enhancement of the country's understanding of the labor market behavior of workers and employers covered by the program. In addition, there is significant need to improve the quality and timeliness of the UI tax reports, which form the universe for sample selection and the benchmark for many of the nation's most important statistical series. The Council finds that the federal government should be responsible for the design and oversight of a comprehensive UI information system consisting of administrative and survey-based data that are comparable among all states.

12. Recommendation

The U.S. Department of Labor's Unemployment Insurance Service, with advice from the Bureau of Labor Statistics, should design the elements of a comprehensive information system of UI data that are comparable in definition and format for all states. Some of the elements that should be included are data on (1) coverage and eligibility by earnings level and by type of worker; (2) the elements of labor market attachment; (3) the levels and duration of benefits paid; (4) the extent and causes of non-

monetary disqualifications; (5) labor market information at the national, state, and local levels; (6) the extent of forward funding of state trust funds; and (7) the quality, efficiency, and cost of program administration at both the federal and state levels. Each state should maintain its database in accordance with U.S. Department of Labor requirements so that statistical standards, definitional comparability, and easy computer access for all users can be maintained.

13. Recommendation

The U.S. Department of Labor's Unemployment Insurance Service should continue to plan and sponsor biennial supplements to the Current Population Survey on UI issues.

14. Recommendation

Because of the importance of the quarterly report on employment and wages (the ES-202 report) to the measurement of the national income and product accounts, and because of the importance of UI tax records to the nation's system of sample surveys, the accuracy and statistical quality of these reports must be improved. Giving consideration to costs, the Bureau of Labor Statistics, with advice from the Unemployment Insurance Service, should establish standard procedures that states should follow regarding the development of these data; establish magnetic-media format standards for computer compatibility and accessibility; and establish minimum requirements for editing, data quality, and timeliness.

15. Recommendation

As required by law, the Bureau of Labor Statistics should continue its work on the development of a National Wage Record Database. The Bureau should develop rules to protect the confidentiality of those workers and business establishments included in the database for purposes of research and evaluation. Congress should provide legal protection to ensure this confidentiality.

Administrative Funding

The Council finds that the nation's Unemployment Insurance system is subject to downward pressure because of the forces of interstate competition. It is imperative that the federal government exercise leadership to ameliorate these pressures. An important arena for such leadership concerns the method by which the federal government allocates funds under the Federal Unemployment Tax Act (FUTA) to the states for administering the UI system. Indeed, the critical importance of efficient administration was cited by the Committee on Economic Security in 1935 as the reason for originally assigning the cost of state administration of the UI program to the federal government.

The mechanism for allocating FUTA funds to the states for administrative purposes should be as simple as possible, and should provide incentives to promote efficiency and quality in state administration. As currently constructed, however, the system of allocating administrative funds contains no such incentives. Funding levels are based roughly on the expected claims workload, on measures of time (generally based on manual processing) for administrative tasks, and on overhead costs. Under this formula, states with higher costs receive higher levels of reimbursements.

More importantly, the formula provides no direct link between administrative funds and improvements in performance, and there are no overall quality measures related to funding decisions. In the Council's view, states that provide better services to claimants and employers by improving quality and efficiency should receive financial rewards for doing so. This might be achieved through a number of mechanisms, including the tying of administrative funding levels to state performance in certain essential areas and increasing the federal government's use of challenge or innovation grants to states.

The Council finds that the appropriation of administrative funding on the basis of predicted workloads, reflecting economic conditions and increases in operating costs, is the method that best serves the needs of claimants, employers, and state agencies for reliable and predictable levels of administrative funding. These appropriations should be automatically adjusted to cover the costs of increased workload for claims above the predicted level. The Council affirms its concern that adequate amounts of dedicated FUTA payroll tax revenues be made available to state agencies and to the U.S. Department of Labor for their intended uses, and that appropriations of these funds not be limited by budgetary factors external to the UI system.

16. Recommendation

Congress should appropriate FUTA trust funds in amounts adequate to fund state and federal UI activities on the basis of workload predictions using economic factors, with a contingency reserve provision to cover the costs of increased workloads arising during a fiscal year.

17. Recommendation

In order to support automation, development of one-stop services, and improvements in customer services, added state administrative funds beyond those needed for base funding should be provided through innovation grants by the U.S. Department of Labor.

18. Recommendation

The U.S. Department of Labor should promptly review its current reporting and oversight requirements, in consultation with the states, and should reduce or eliminate requirements in areas in which state and national interests are not in conflict or in which federal responsibilities are not directly related to a requirement.

19. Recommendation

States should be given greater flexibility to identify employers for tax auditing. As an incentive for more effective auditing, the federal government should permit states to retain 50 percent of any FUTA revenues that are generated through state's redirected auditing activities.

EXPERIENCE RATING AND FUNDING

As the Council noted in its second annual report, the Unemployment Insurance system's capacity to achieve one of its fundamental purposes—promoting economic stability—rests on two key aspects of its funding mechanism. First, the funding of the system is "experience rated"—that is, employers who have been responsible for greater demands on the system pay higher taxes and consequently bear a greater share of the system's costs. Second, during periods of prosperity, the system accumulates reserves that are then spent during periods of economic decline.

Empirical evidence indicates that experience rating helps discourage temporary layoffs, thereby lowering the overall level of unemployment. In addition, the evidence suggests that experience-rated taxes are more effective than are flat taxes in influencing employer behavior in this regard. This may be because experience-rated taxes are borne primarily by employers, whereas flat taxes are more easily passed on indirectly to employees or to consumers. By assigning a greater share of the costs of the system to employers responsible for greater demands on it, a system of experience rating allocates costs more equitably among employers. Finally, experience rating gives employers an interest in ensuring that benefits are paid only to individuals who meet the program's eligibility criteria.

Some members of the Council are concerned, however, with a number of aspects of the experience-rating system. First, such a system often imposes costs on firms precisely when they are in the weakest economic position. Second, under a system of experience rating, some employers might make excessive use of the appeals system. There is evidence that employers' appeals rates have increased in recent years and that they are losing a higher percentage of the appeals they file. Finally, the steady decline in the level of the taxable wage base in real dollars may have the effect of reducing the degree to which the system is experience-rated and forward-funded.

Given these differing perspectives, the Council makes no recommendation with regard to experience rating within the UI system.

With respect to the second key element of the UI system's funding—the accumulation of reserves during periods of prosperity—empirical evidence indicates that, holding all else constant, those states with higher taxable wage bases have higher UI trust fund reserves. Thus, in order to promote the forward funding of the UI system—a federal responsibility—one of the most effective mechanisms is to raise the minimum taxable wage base.

20. Recommendation

The federal taxable wage base should be raised to $9,000, with an accompanying elimination of the two-tenths percentage point FUTA surcharge. The federal taxable wage base should be adjusted annually by the Employment Cost Index.*

*Three members of the Council object to the first sentence of Recommendation 20, and five members object to its second sentence.

SECTION II

ISSUES IN UNEMPLOYMENT INSURANCE

3 / Federal and State Interests and Responsibilities

INTRODUCTION

> Federal government [i.e., federalism] stands for multiplicity in unity. It can provide unity where unity is needed, but it can ensure also that there is variety and independence in matters where unity and uniformity are not essential . . . within this unity there is room under federalism for each region [state] to govern itself in its own way. This exercise in self-government is sufficiently valuable to be worth the cost it entails. [Wheare 1964, 244.]

The appropriate assignment of responsibilities to the federal and state governments in the Unemployment Insurance (UI) system has been debated since the inception of the system six decades ago. This chapter begins by examining some advantages and disadvantages of a federal-state program structure and then applies this analysis to the specific case of the UI system. Two objectives of the UI system that serve essential national interests are identified, and the pursuit of these objectives is then considered in determining the appropriate division of federal and state program responsibilities. The analysis ultimately leads to the identification of specific program components that must be in place in order to preserve national interests in the areas of those two objectives, and the extent to which these interests are currently protected is discussed.

SHARED RESPONSIBILITIES IN A FEDERAL-STATE PROGRAM STRUCTURE

Advantages of Assigning Significant Responsibilities to States

A number of advantages accrue to the nation, to states, and to individual citizens when federal and state governments share responsibilities in a program such as Unemployment Insurance. In deciding how best to divide such shared responsibilities among levels of government, it is important to consider "the comparative advantage of each level of government" (Peterson, 1995, 3). For example, among the advantages that derive from the assignment of significant responsibilities to state governments, two are particularly noteworthy. The first is that such assignment may lead to more rapid policy innovation than would otherwise occur. Thus, states can serve as so-called laboratories of democracy (Weaver, 1995, 2). In large part, this opportunity for more rapid policy innovation and improvement at the state level is a result of the likelihood that there are fewer barriers to adopting innovations in at least some state governments than there are at the national level. Another factor contributing to states' greater capacity for policy innovation and experimentation is simply the variety and the number of units (namely, states) within which policy experimentation can occur.

The second noteworthy advantage that occurs from the assignment of significant responsibilities to state governments relates to the ability of states to respond to local conditions and preferences. In this area, states have the clear advantage over a national government because they are more aware of local conditions and can usually respond to them more quickly. In addition, state-by-state policy variations implicitly allow citizens to choose across states from a variety of tax and service packages. All else being equal, this allows more citizens to receive the particular policy package that they prefer (see Weaver 1995).

Disadvantages of Significant State Policymaking Autonomy

It is possible that, under some circumstances, the general advantages of significant state autonomy in policymaking would be either partially or completely offset by other, destructive factors. Such disadvantages would most likely involve one of the following phenomena, both of which are fundamentally linked to the sharing of policy responsibilities.

First, there are policy matters in which national interests—that is, desired policy outcomes that would benefit the country as a whole—may naturally be hindered when states pursue their own interests through independent policymaking. These are matters in which there is no reason for state and national interests to coincide. If the particular national interest is determined to be essential—that is, if it transcends state interests—then it may be considered a matter in which "unity and uniformity" in state policies are indeed considered essential. Some form of national coordination would be necessary to protect the national interest in such a matter.

Second, the general advantages of state independence in policymaking may be offset by disadvantages that arise directly from the interstate dynamics inherent in autonomous state policymaking. Prominent among these structural disadvantages is the tendency for states to be forced onto a policy path of pernicious interstate competition, which, in its most extreme form, has been called a "race to the bottom."[1] Weaver (1995, 5) describes this dynamic as "perhaps the most serious risk associated with federalism." In a benefit program, this path would typically emerge as states responded to interstate economic competition by taking actions that result in reduced tax rates. In most cases, such actions ultimately cause reductions in benefit expenditures.[2] Such actions by a state are directed at attracting or retaining businesses, but they also create pressures on other, competing states to reduce *their* tax rates and associated benefits or services.

As an example of this effect, the overall impact of external economic competition with regard to the Aid to Families with Dependent Children (AFDC) program has been described as "a powerful convergence factor that shapes policy outcomes. If a state's benefits are higher than those of its peers, pressures increase on policymakers to adjust their benefits downward" (Peterson and Rom 1990, 81). Oates (1972, 225) suggests that this tendency may increase over time: "Public officials are likely to become increasingly sensitive to tax competition among jurisdictions, which . . . will result in less than efficient levels of output of local [state] public services . . . inefficiencies associated with decentralized taxation may become magnified over time." Thus, these pressures are likely to result in gradually increasing erosion of the relevance, efficiency, or vitality of affected government programs.[3]

Each state's wish to avoid a position of competitive disadvantage can also be seen in the focus of state policy considerations for a given program. Peterson and Rom (1990, 33-35) note that the debate about AFDC in one state during the 1980s focused almost exclusively on the "business climate"

of the state: "In the debate over what the appropriate benefit levels should be, almost never did one hear moral questions concerning, for example, whether the poor 'deserve' welfare. Instead, the issues revolved around the consequences for . . . economic position." Thus, competitive economic pressures may channel state policymaking efforts in different directions than they would take if interstate competition were not a factor.

Balancing Responsibilities in a Federal-State Program

Given the considerations discussed above, the federal government needs to pursue two courses of action simultaneously in order to maximize program efficiency while also preserving national interests in a given policy area. The two courses of action are these:

1. It should foster the inherent advantages that accrue from assigning significant responsibility to the states.

2. It should seek to minimize or prevent the emergence of phenomena that may threaten essential national interests.

These joint endeavors would enable structural federal-state advantages and disadvantages to be balanced as positively and as efficiently as possible. The balance could be achieved perhaps most simply and directly by providing for significant state policymaking autonomy in most elements of a given policy area, but by explicitly limiting state policymaking autonomy in elements in which federal government coordination is necessary to secure basic national interests.

FEDERAL-STATE ROLES IN UNEMPLOYMENT INSURANCE

Throughout its history, the UI program has functioned through the broad sharing of powers between the federal government and state governments. Discussing the history of the program, Rubin (1990, 207) states that "unemployment insurance thrived as a hybrid federal-state system. In no other federal program were responsibilities so thoroughly shared between two levels of government." He goes on to say, however, that "few public programs were as dependent on intergovernmental cooperation, and few generated as much intergovernmental discord. Rarely has a public program's organizational structure had such an important influence on its direction."

The presumption that the federal government should not intervene except in matters requiring uniformity has been cited as a foundation of the federal-state governance of the UI system since its beginning. In establishing the program, Franklin D. Roosevelt's Committee on Economic Security said: "The States shall have broad freedom to set up the type of unemployment compensation they wish. We believe that all matters in which uniformity is not absolutely essential should be left to the states" (quoted in Rubin 1990, 208). Implicit in this statement is a recognition that essential matters requiring uniformity should be regulated by the federal government. As discussed above, the identification of such essential matters with respect to the Unemployment Insurance system requires the identification of those program functions (1) in which basic national interests are unlikely to be achieved through independent state policies, or (2) in which harmful interstate policy dynamics, such as pernicious competition, are likely to develop.

Essential National Interests

In a theoretical examination of federalism, Oates (1972) identifies three fundamental economic functions that he considers to be primary concerns of a national government: economic stabilization, equitable income redistribution, and the provision of certain public goods (that is, goods or services that benefit the entire nation but that are unlikely to be provided by state or local governments). The three functions identified by Oates as national interests within a structure of federalism relate most directly to two specific functions, or objectives, of the Unemployment Insurance system: economic stabilization and wage replacement.

Economic Stabilization

The stabilization of the macroeconomy is an objective of the Unemployment Insurance system that transcends the interests of each individual state. The UI system functions as an automatic economic stabilizer in the American economy by increasing consumption during economic downturns (see, e.g., Gruber 1994). The UI system represents one of the nation's largest automatic economic stabilizers.

The statement of purpose for the UI system prepared by the Advisory Council on Unemployment Compensation enunciates this function: "the system should accumulate adequate funds during periods of economic health in order to promote economic stability by maintaining consumer purchasing

power during economic downturns" (ACUC 1995, 8). The national interest in economic stabilization thus encompasses the economic stabilization function of the UI system—specifically, there is a national interest in maintaining the capacity of the UI system to provide countercyclical stimulation at an efficient level.[4]

Insurance and Wage Replacement

The UI system provides workers with insurance against the risk of involuntary unemployment by replacing a percentage of the wages of eligible unemployed individuals.[5] The ACUC's statement of purpose for the UI system cites this as the most fundamental function of the system: "The most important objective of the U.S. system of Unemployment Insurance is the provision of temporary, partial wage replacement as a matter of right to involuntarily unemployed individuals who have demonstrated a prior attachment to the labor force" (ACUC 1995, 8).

Insurance principles hold that the provision of insurance requires a capacity to pool risks across individuals.[6] Economically efficient levels of insurance and risk pooling cannot be provided when external pressures erode the mechanisms through which insurance is provided. Indeed, prior to federal actions in the 1930s that changed existing incentives, pressures against the provision of such insurance at the state level were so great that only one state, Wisconsin, provided even limited insurance against unemployment, and voluntary private insurance was extremely limited (Blaustein 1993, 108).[7]

Overall, therefore, there is a national interest in the federal government's acting to protect the UI system's function of providing insurance through the replacement of wages. In the absence of federal action, the insurance nature of the system is jeopardized, resulting in the inefficient provision of insurance and/or in insurance benefits being unavailable to a large percentage of the unemployed who are covered.

The Need for Federal Protection of Essential National Interests

As discussed in the previous section, the functioning of the UI system affects two areas in which there is an essential national interest that requires protection by the federal government. Either the national interests in these areas are not fully consistent with independent state interests, or they may be threatened by the pernicious effects of interstate economic competition. Some form of federal government action, such as establishing program standards or creating

new incentives, represents the only means of assuring that these basic interests are not neglected as states pursue their own interests independently.

Consistency of National and State Interests

The question of the consistency of national and state interests is primarily relevant in regard to the national interest in economic stabilization, where there is little or no theoretical correlation between national and state interests. Although the states have no incentive for undermining the *national* macroeconomic stabilization function of the UI system, neither have they any incentive to take action to promote that goal. Oates (1972) suggests that state governments, left to their own devices, possess neither the capacity nor the will to achieve any economic stabilization functions effectively.

By its very nature, state policymaking is a function of state and local interests. As such, it bears little, if any, relationship to national interests. Thus, there is no reason to expect that the outcome of 53 independent sets of policymaking decisions would resemble the system that would most efficiently stabilize the macroeconomy during periods of recession. "Since [residents of different states] gain from macroeconomic stability and since their gain is ignored by individual states when designing their UI systems, individual states are likely to underprovide benefits" (Davidson and Martin 1995, 8). Thus, if the UI system is to function efficiently as a national economic stabilizer, significant federal policy coordination is necessary.

Potential for Pernicious Interstate Policy Competition

The impact of interstate policy competition is most relevant with regard to the national interest in providing insurance through the replacement of wages. It is this goal that is most likely to be adversely affected by pressures on states to reduce taxes, including UI taxes. Weaver (1995, 9) states that pernicious competition is most likely to develop in circumstances similar to those that exist in the UI system, where "deviation from the norm . . . places those states at a distinct competitive disadvantage vis-à-vis other states with regard to tax rates." One theoretical analysis suggests that, as a result of interstate economic competition, "inefficiently low levels of UI benefits will be provided" (Hoyt 1995, 10).

As early as 1935, the Committee on Economic Security recognized the impact that a UI system would have on a state's business climate. The committee noted that, in the absence of any federal action, competitive business

advantages would accrue to states that did not have an unemployment insurance program in place: "So long as there is danger that businesses in some states will gain a competitive advantage through failure of the state to enact an unemployment insurance law, few such laws will be enacted" (quoted in Rubin 1990, 209). As a result, the Federal Unemployment Tax Act (FUTA) was explicitly structured to ensure that a competitive business *disadvantage* would result for those states that did not enact a UI program.

Within the structure established by these FUTA provisions, then, competitive business advantages accrue to states in which a UI program exists, but in which it also costs the least. Costs can be minimized and UI taxes kept low by restricting eligibility or by paying a low level of benefits. Thus, states seeking to improve their business climate do have strong incentives to reduce UI costs relative to other states. Because these circumstances affect all states, simply by pursuing their own interests, states can inadvertently be drawn into pernicious competition.

It should also be noted that the external economic pressures for lower state UI taxes have a direct effect even on states generally disposed toward *maintaining* benefit or eligibility levels. All else being equal, if a state reduced taxes, its neighboring states would have to lower theirs *just to stay at the same relative level of competition.* Maintaining the status quo in such a case would result in the deterioration of a state's competitive position.

TWO AREAS FOR DIRECT FEDERAL INVOLVEMENT IN THE UI SYSTEM

As discussed, the two primary areas of concern regarding state policymaking autonomy in the UI system are (1) that efficient economic stabilization cannot be achieved without a coordinated federal policy, and (2) that, given the nature of the UI system, states could be forced into destructive interstate competition in the absence of federal coordination, jeopardizing the provision of insurance and the replacement of wages. This section focuses on the primary components of the UI system that must be protected in order to preserve essential national interests through UI.

Elements Necessary to Preserve the System's Economic Stabilization Capacity

To ensure the capacity of the UI system to stabilize the economy during periods of economic downturn, four components should be in place:

1. Each state must have an Unemployment Insurance program.

2. The state programs should be forward-funded with independent trust funds to ensure that the national UI system has the capacity to inject additional money into the economy during recessionary periods.

3. State benefit levels should be high enough to support efficient economic stabilization efforts.

4. Systems should be in place for monitoring and analyzing labor market conditions, and any existing supplemental fiscal mechanism for countering national or regional economic downturns (for example, Extended Benefits or contingency administrative funding) should be maintained at a national level.

These components are discussed in detail below.

Ensuring the Existence of State UI Programs

For *any* national goals to be achieved by a federal-state UI system, all of the states must actually have programs in place. The incentive in FUTA for states to enact and maintain unemployment insurance laws is the provision that gives employers a substantial FUTA tax credit if they pay state UI taxes in a state that meets certain minimum federal standards regarding the state's UI program. As noted above, before FUTA was passed, all responsibility for providing unemployment insurance had been left to the states, but only Wisconsin had implemented even a limited system. This same FUTA provision has continued to ensure the existence of UI programs in all states and has also provided the federal government with powerful leverage for ensuring that the laws of a state continue to adhere to federal guidelines, including those implemented after the creation of the state's UI program.

Maintaining Forward Funding

The capacity of the UI system for economic stabilization is dependent upon the extent to which it is forward-funded. Under pay-as-you-go financing, which prevails today in many state UI systems, few reserves are available to stimulate the economy when needed because trust funds are not being built up during periods of economic health. Thus, to secure and strengthen the eco-

nomic stabilization capacity of the system, either standards or incentives for states to increase the level of forward funding in the system are necessary. The ACUC recommended the adoption of such incentives in its 1995 report.[8]

Maintaining Benefit Levels

The economic stabilization capacity of the UI system is directly related to the actual level of UI benefits. The higher the level of benefits paid out, the greater the stimulus to the economy. Thus, any factors that reduce the levels of benefits paid to unemployed individuals have a direct impact on the program's stabilization capacity. Many such factors are related to interstate economic competition, and are discussed in the next major section.

Monitoring Labor Market Conditions and Maintaining Supplemental Stabilization Mechanisms

To ensure the efficiency of any economic stabilization efforts, there must be systems in place for monitoring and analyzing labor market conditions. Although states are well suited for monitoring conditions within their borders, national and regional unemployment conditions can be monitored most efficiently at the national level.

Any supplemental countercyclical mechanisms (such as the Extended Benefits program) created to address acute labor market conditions at the national or regional level should also be maintained by the national government. This allows for more efficient stabilization through the pooling of macroeconomic risk. When reserves are combined, lower levels of total reserves are required to counter an economic downturn in any given state. For example, if the economy in one state—say, Colorado—encounters difficulty, reserves collected from other states and deposited in the Extended Benefits fund can be injected into the Colorado economy. In another year, funds originating in Colorado may contribute to the stabilization of the economy of another state. For each state to provide this level of protection for itself independently, state trust fund reserves would have to be much higher than when risks are pooled across states. Similarly, by providing for federal contingency funds for administrative expenses, risks can be more efficiently pooled across states than if each state ran its program in isolation.

For a supplemental system to be effective, the federal government must ensure that it is funded sufficiently to allow efficient economic stabilization and stimulation during recessions. There is abundant evidence that the

Extended Benefits system no longer achieves this function (see ACUC 1994). The ACUC made recommendations in 1994 for reforming this system (see Appendix E in this volume).

Elements Necessary to Prevent Pernicious Interstate Competition

As discussed, the ultimate effect of interstate economic competition on the UI program, as currently structured, is likely to be a reduction in UI tax rates. Such tax rate reductions could come about through reductions in three primary areas: eligibility standards, benefit levels, and administrative services (for example, the benefit delivery and appeals systems). At the same time, tax reductions themselves could necessitate reductions in these areas, as discussed below.

Maintaining Eligibility Standards and Benefit Levels

If a state's tax rates were reduced, in the absence of any other change the state would ultimately find that its UI expenses also had to be reduced. Since the vast majority of UI program expenses are benefit payments, the easiest way to reduce costs would be to restrict eligibility in some way or to reduce benefit payments. Restrictive actions in either area would have the same cost effect: costs would be reduced. Thus, these two program areas would be expected to be affected most directly by interstate economic competition.[9] Reductions in either area would also threaten both of the essential national interests in the UI program. To the extent that benefits or eligibility were reduced, the economic stabilization capacity of the program would be weakened and the wage replacement function would be eroded.

The most direct means of protecting these two national interests from the threat brought about by interstate competition would be the imposition of some form of minimum benefit and eligibility standards, or the establishment of incentives for states to protect benefit and eligibility levels. Currently, no such federal standards or incentives exist.

Maintaining Quality Administrative Services

Interstate economic competition can also affect program components other than benefits or eligibility. Benefit delivery, appeals, and other administrative services, if left to the states, could be curtailed in an effort to cut UI-related taxes. Davidson and Martin (1995, 5) suggest that "there are a variety of reasons to expect that states would prefer to offer a system of lower quality than

the Federal government would desire—the interests of the states and the Federal government are likely to diverge." A recognition of the need to "encourage efficient administration, without which unemployment insurance will fail" was cited by the Committee on Economic Security as the primary reason for assigning the cost of state administrative services to the federal government (Rubin 1983, 26).

Thus, administrative funding responsibility rests at the federal level. Nonetheless, the quality of services is not necessarily ensured by this arrangement. Davidson and Martin (1995) suggest an alternative system in which states are permitted to keep any funds that are allocated but unspent, and in which the federal government measures and rewards quality administration.

CONCLUSIONS: SPECIFIC AREAS FOR FEDERAL INVOLVEMENT

Currently, the federal government partially shapes policy in numerous UI program areas. Some of these areas, as discussed in the chapter, are related to the preservation of essential national interests. This discussion identified specific program areas in which federal policy coordination is likely to be necessary to protect the economic stabilization and wage replacement functions, even in a UI system where many program responsibilities reside at the state level. Combining the components necessary for each of the two functions, five general areas can be identified in which state policy alone is unlikely to protect the fundamental functions of the system:[10]

1. *The federal government should ensure the existence of a UI system.* This function is currently carried out fully by the federal government.

2. *The federal government should ensure that the system is forward-funded.* This function is not currently being carried out. (The Council's recommendations on forward funding from the 1995 ACUC report are reprinted in Appendix F in this volume.)

3. *The federal government should monitor labor market conditions and maintain supplemental UI systems.* Currently, the federal government does monitor labor market conditions. Further, a supplemental benefits program, Extended Benefits, exists, but its effectiveness has diminished considerably over time. (The Council's recommendations on Extended Benefits from the 1994 ACUC report are reprinted in Appendix E in this volume, and its recommendations on data

needs in monitoring labor market conditions are presented in Chapter 2 of this 1996 report.)

4. *The federal government should protect benefit and eligibility levels.* It does not currently carry out this function. (The Council's recommendations on replacement rates—that is, on benefit levels—and on monetary requirements for establishing eligibility from the 1995 ACUC report appear in Appendix F).

5. *The federal government should ensure quality and efficiency in program administration.* It partially carries out this responsibility at the present time. (The Council's recommendations on this issue are included in Chapter 2 of this 1996 report. The issue is also discussed in Chapters 5 and 6.)

NOTES

1. Other harmful policy paths that Weaver (1994) suggests may result from federal-state responsibility sharing are federal-state competition, policy preemption, and evasion of responsibility. The likelihood that any one of these paths would be followed is a function of the characteristics of a specific policy area and relevant institutional arrangements.

Alternatively, circumstances may dictate that other, positive policy paths emerge from federal-state responsibility sharing. In addition to a general trend toward policy experimentation, innovation, and emulation, positive competition may develop between the federal and state governments, resulting in efforts to implement policies in a timely manner.

2. Over the long term, benefit payments and tax revenues must be approximately equal. Thus, reductions in benefits would tend to result in reduced taxes, and reduced taxes would tend to necessitate benefit reductions. Thus, changes in either benefits or taxes would tend to affect the other as well.

3. With regard to the Unemployment Insurance program, there is evidence that some components of the system have eroded over time. See Chapter 4 in this volume for additional information.

4. Application of Oates's conceptual framework to the UI system suggests that economic stabilization is also one component of the public good that the system provides.

5. While UI is essentially a social insurance program, it does maintain some elements of income redistribution through its partial emphasis on "social adequacy principles" (that is, its emphasis on providing the unemployed with benefits related to their presumed needs).

There are a number of examples of this pursuit of social adequacy in the UI program, reflecting an assumption that individuals with lower incomes require a higher proportion of income for necessities than do workers with higher incomes. For example, in some states, benefit formulas are set in order to ensure that lower-wage workers receive a higher percentage of their previous wages in benefits than higher-wage workers do. In addition, all states set a maximum weekly benefit amount, meaning that for all workers at the

benefit ceiling, replacement rates are progressively lower as previous wages increase. Further, 13 states provide additional benefits ("dependent allowances") for UI recipients who have dependents.

6. In the UI system, risks are also partially pooled across employers through the socializing of some UI costs.

7. By this time, England and Germany had already implemented compulsory unemployment insurance systems. England's system had been in place since 1911.

8. See the Council's 1995 Recommendations 2 through 7, reprinted in Appendix F of this report.

9. Weaver (1995) notes that, in programs in which standards are set in nominal dollars (which is the case in many states' UI programs), competition may have the more subtle effect of states simply not adjusting benefit or eligibility standards for inflation.

10. Four of the federal responsibilities correspond generally to those identified by the Committee on Economic Security in 1935: providing an incentive to create and maintain a system of unemployment insurance, protecting UI reserves, ensuring efficient program administration, and providing program standards in areas in which uniformity is considered essential (Rubin 1990, 209).

One additional responsibility might be added: maintaining a supplemental component of the Unemployment Insurance system that would act as an additional countercyclical mechanism in times of economic recession. It is likely that this responsibility was not explicitly addressed by the 1935 committee because the economic theories that suggest this as an important federal responsibility had not yet been widely accepted.

4 / The Evolution of Unemployment Insurance

THE UNEMPLOYMENT INSURANCE system's direct capacity to serve workers can be measured through a number of varied dimensions. These worker-oriented dimensions include the percentage of the workforce that is covered under the system, the percentage of unemployed individuals who are eligible to receive benefits, the percentage of the unemployed who actually receive benefits, the percentage of UI recipients' lost earnings that are replaced by unemployment benefits, and the potential duration of benefits.

The system's performance on some of these measures has changed dramatically since the inception of the UI system in the 1930s. For example, the percentage of the workforce covered by the program has increased significantly over time, whereas the percentage of the unemployed who actually receive benefits has exhibited a steady decrease over the long term. Still other measures, such as the potential duration of benefits, have remained relatively constant decade after decade.

Taken altogether, these trends reflect the evolution of the UI system. They indicate the direction in which it is moving and where it can be expected to go in the future. They show the areas in which the system serves the unemployed well and those in which its relevance and responsiveness have declined. These trends also reveal changes in some areas that can help identify larger forces and dynamics that could affect the functioning of the UI system.

This chapter has two objectives. First, it provides information about various measures of the generosity and relevance of the UI system and about their change over time. Whenever possible, this information is based on aggregate time series data. When this is not possible, cross-section information is provided from the 1990 Survey of Income and Program Participation

(SIPP), conducted by the Bureau of the Census. The SIPP data are then used as the basis for estimating changes in UI generosity throughout the 1980s.

Second, the chapter explores two possible causes of the system's long-term decline in some dimensions—particularly the decline in UI recipiency (the percentage of the unemployed who actually receive benefits). The first of these possible causes is the existence of incentives for states to engage in cost-shifting—that is, to shift low-wage individuals from UI (with benefits fully financed by the states) to means-tested programs such as AFDC (with benefits heavily subsidized by the federal government). The second possible cause of the decline in UI recipiency (which could adversely affect other measures as well) is the existence of incentives for states to compete with one another by reducing UI payroll taxes in an attempt to attract and retain employers and jobs. (See the discussion of this problem in Chapter 3.) Little empirical research has yet been conducted regarding the existence and the effects of these dynamics.[1]

Chapter 4 is organized as follows. The next section discusses trends in coverage and eligibility. The section on "Benefit Receipt" then reviews the evidence on trends in UI recipiency, briefly summarizes the econometric literature that has examined these trends, and concludes by providing evidence on the magnitude and effect of the cost-shifting phenomenon. The next section discusses trends in replacement rates and potential duration of benefits, and is followed by a section on trends in UI tax rates that provides empirical evidence of the existence of interstate competition in the setting of these rates. The final section summarizes the findings of the chapter. Additional detail and technical information on the analyses presented in Chapter 4 are provided in Appendix A.

COVERAGE AND ELIGIBILITY

Coverage

The percentage of the labor force that is covered under the UI system is defined as the percentage of jobs for which an employer pays UI taxes on a portion of a worker's wages. An employer who is required to pay UI taxes must pay taxes for all employees. Thus, whether or not a worker is covered under the UI system is fully dependent on whether or not federal or state law requires the worker's particular employer(s) to pay UI taxes, as discussed below. If a worker who is covered becomes involuntarily unemployed, that worker can receive UI benefits if he or she meets all monetary and nonmon-

etary eligibility requirements. Coverage is thus a precondition for eligibility, since workers who are not covered cannot receive benefits even if they meet all eligibility requirements.

When the UI system was created in 1935 by the Social Security Act (amended by the Federal Unemployment Tax Act in 1939), federal law required employers in only industry or commerce to be subject to UI taxes, and then only if they employed eight or more workers during at least 20 weeks of the year.[2] Among the effects of the initial federal coverage provisions was the exclusion from coverage of workers in small firms, workers in agriculture and the public sector, and seasonal workers.[3]

Since the UI program's inception, federal law has been amended on a number of occasions, always in the direction of extending coverage to groups that had been excluded under the original law. Coverage was first expanded in 1954, to include employees of all commercial or industrial employers with four or more workers.

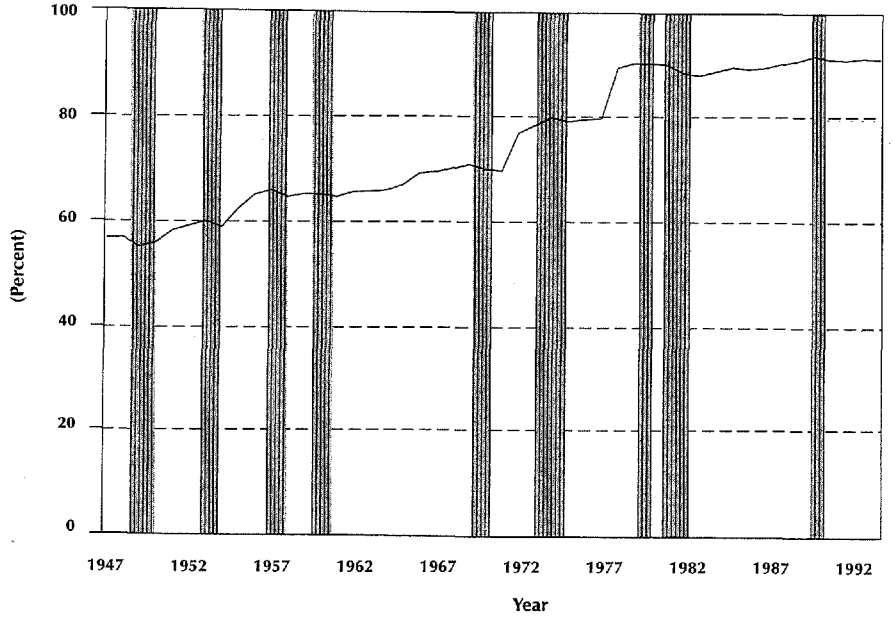
In 1970 the law was amended again, requiring employers to pay UI taxes if they employ one or more workers during at least 20 weeks of the year, or have a payroll of at least $1,500 in any calendar quarter. The 1970 UI amendments also extended coverage to employees of nonprofit organizations that employ four or more workers.[4] Through a combination of 1970 and 1976 UI amendments, coverage was extended to all employees of state and local governments.[5] In addition, the 1976 amendments extended coverage to some agricultural workers.[6] A number of other, minor extensions in coverage have occurred since the creation of the UI program.[7]

Overall, as a result of extensions since the beginning of the program, UI coverage today is nearly universal. As Figure 4-1 indicates, coverage has been extended to more than 90 percent of all civilian employees in the United States. Almost 98 percent of wage and salaried employees are now covered.[8] By this measure, the UI system has clearly become relevant to the needs of a larger percentage of workers than it was at the beginning of the program.

Eligibility

Eligibility among unemployed workers who are covered under the UI system is based on a combination of factors. *Monetary* eligibility requirements are designed to ensure that those who receive UI benefits had a substantial attachment to the labor force prior to their unemployment.[9] These monetary requirements, which vary from state to state, typically have three components. First, earnings during the "base period," which is defined in most

FIGURE 4-1. Percentage of Workers Covered by UI, 1947-1994



NOTE: Shaded regions represent recessions from peak to trough.

SOURCES: Council of Economic Advisors (1995); U.S. Department of Labor, Bureau of Labor Statistics (1995b).

states to be the first four of the most recently completed five calendar quarters, must exceed some minimum level. Second, most states also have some form of a "high-earnings" requirement, which specifies a minimum level of earnings that an individual must have within some specified amount of time (often this requirement must be met during one calendar quarter in the base period).[10] Third, most states require that an individual have earnings in at least two of the four base period calendar quarters.

Three *nonmonetary* requirements are designed generally to ensure that a UI recipient is involuntarily unemployed (that is, was laid off from work) or voluntarily left work for good cause, is available for work, and is actively seeking work. The first of these conditions (along with the monetary eligibility requirements) determines whether an unemployed worker initially qualifies for benefits; the second and third of these conditions must be satisfied on a continuing basis throughout an unemployment spell. If they are not satisfied in any given week, the worker is ineligible to receive benefits for that week.

Blank and Card (1991) provide the only information available on what percentage of the unemployed meet their state's eligibility criteria. Using repeated cross-sections from the Current Population Survey (CPS), they calculate that 43 percent of the unemployed meet eligibility requirements. Further, they conclude that there was little change in eligibility between 1977 and 1987.

One of the disadvantages of using the CPS to estimate eligibility is that it does not contain sufficient retrospective earnings data to allow UI eligibility to be calculated with a high degree of accuracy. The Survey of Income and Program Participation provides the best available data for this purpose, since it includes monthly longitudinal earnings records as well as a number of other variables that could affect eligibility. While neither the CPS nor the SIPP contains enough detail to simulate nonmonetary eligibility, both databases identify whether or not an unemployed individual was laid off from his or her job. It is possible to approximate nonmonetary eligibility with this information, since the vast majority of those on layoff would meet their state's nonmonetary eligibility requirements (while the majority of those who quit their job would not).

Table 4-1 summarizes the results from eligibility simulations using the 1990 SIPP.[11] Overall, in 1990, 61.4 percent of the unemployed satisfied their state's monetary eligibility requirements; percentages ranged from 41.5 percent of unemployed black females to 69.7 percent of unemployed white males. The second row of Table 4-1 reports the percentage of the unemployed who lost (rather than quit) their jobs and met their states' monetary

TABLE 4-1. Results of SIPP Simulations: Percentage of Unemployed Individuals Who Satisfied Their State's UI Monetary Eligibility Requirements in 1990 and 1978

	Total	Women		Men	
		White	Black	White	Black
1990 Monetary Eligibility (assumes 1990 demographics)	61.4	58.3	41.5	69.7	56.3
1990 Monetary Eligibility, Job Losers Only	50.9	44.4	33.0	60.5	51.1
1978 Monetary Eligibility (assumes 1990 demographics)	63.6	60.9	43.1	71.8	58.0
1990 Monetary Eligibility (assumes 1978 demographics)	55.0	54.0	36.6	62.4	48.1
Changes in UI Eligibility Between 1978 and 1990 Resulting from:					
Changes in States' Monetary Eligibility Rules	–2.2	–2.6	–1.6	–2.1	–1.7
Demographic Shifts	6.4	4.3	4.9	7.3	8.2
Net Effects of Changes	4.2	1.7	3.3	5.2	6.5

NOTES: See the discussion of this table in the text of this chapter and in footnote 11. Also see Appendix A in this volume, the section entitled "SIPP Analysis." The number of unweighted unemployment spells used in the analyses was 8,158 (32.6 million weighted). This table includes individuals who were simulated as being monetarily ineligible but who were reported as receiving UI benefits. The "total" column includes some individuals whose race was not identified as white or black.

SOURCE: Analysis of unemployment spells between 1989 and 1992, using the 1990 SIPP Full Panel Research File and Wave 2 Personal History Topical Module (described in Appendix A).

eligibility standards for UI. These figures, which are the most directly comparable to Blank and Card's (1991) evidence, suggest that 50.9 percent of the unemployed are eligible for UI (a somewhat higher percentage than was indicated by Blank and Card's analysis of CPS data).

The eligibility simulations were repeated, applying 1978 (rather than 1990) state monetary eligibility rules to the individuals in the 1990 SIPP. The results, which are reported in the third row of Table 4-1, indicate that, holding the demographic composition of the labor force constant, the percentage of the unemployed who met their state's monetary eligibility requirements

declined by 2.2 percent between 1978 and 1990. Once again, the SIPP simulations produce higher rates of eligibility than those found by Blank and Card (1991), suggesting that the CPS may underestimate UI eligibility.

A variety of changes in federal law in the 1980s contributed to the decline in eligibility between 1978 and 1990. First, prompted by the intense borrowing of many states when their trust fund balances were negative, the federal government began to charge interest on loans not repaid within one year. Second, states could defer these interest payments if they adopted and maintained cost-cutting and tax-increasing measures. In addition, states were given other direct incentives, linked to federal Extended Benefits funds, to tighten eligibility requirements (ACUC 1994).

As a result of these changes in federal law, as well as voluntary state responses to trust fund insolvency, many states raised their monetary eligibility requirements in the 1980s. Between 1981 and 1987, 35 states increased the minimum-earnings requirements (in inflation-adjusted terms) needed to qualify for UI benefits (U.S. General Accounting Office 1993). The average increase among these states was 63 percent, whereas the rate of inflation for wages and salaries was less than half of that (31 percent). Evidence suggests that these changes were linked to levels of state trust funds, because the largest increases in earnings requirements were observed in states that had the largest decreases in their trust fund balances.[12] As with most changes in eligibility standards, these changes were most likely to affect low-wage workers, part-time workers, and individuals with sporadic work histories.

Three changes occurred in the demographics of the unemployed population between 1978 and 1990: (1) men were a larger proportion of the unemployed population in 1990 (55 percent) than in 1978 (51 percent). (2) The proportion of the unemployed who were white declined slightly (from 76 to 74 percent), and the proportion of minorities increased slightly (from 24 to 26 percent). (3) The unemployed population became older between 1978 and 1990. For example, 49 percent of the unemployed were between ages 16 and 24 in 1978, and only 35 percent of the unemployed were in that same age group in 1990. The fourth row of Table 4-1 reports the percentage of the unemployed population that would have been monetarily eligible for UI benefits in 1990 if the demographics of the unemployed population (including the age distribution) had been the same in 1990 as in 1978. These calculations indicate that the demographic changes between 1978 and 1990 contributed to an increase in monetary eligibility.

The final three rows of Table 4-1 report the changes in UI eligibility that result from changes in demographics and changes in states' monetary eligi-

bility rules. Demographic shifts (the aging and gender/race mix of the unemployed population) contributed to an increase in the percentage of the unemployed who are eligible for UI. This increase, however, was partially offset by changes in states' monetary eligibility requirements.

BENEFIT RECEIPT

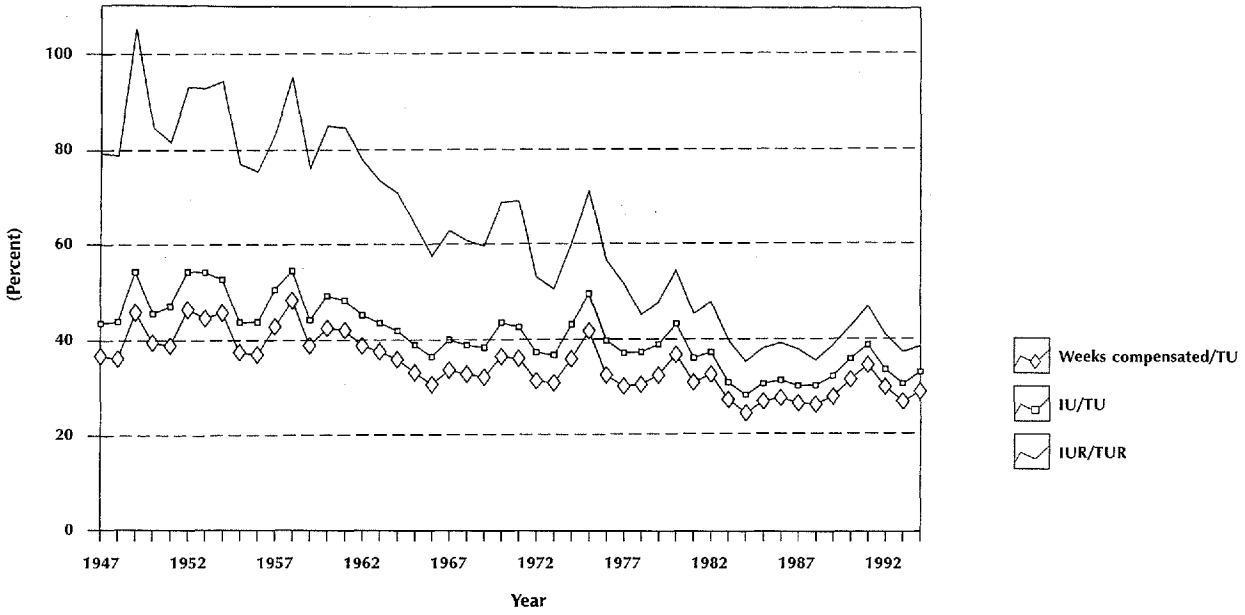
Two statistics have been used most frequently to measure receipt of Unemployment Insurance. The first is the ratio of the Insured Unemployment Rate (IUR) to the Total Unemployment Rate (TUR),[13] and the second is the ratio of UI claimants (IU) to total unemployment (TU). Both ratios are based on a measure of the number of UI claimants, which is collected by each state on a weekly basis. The two ratios, which are highly correlated (see Figure 4-2), converge as the percentage of the workforce that is covered by UI increases.[14]

A third measure of recipiency is used for the following reason. The total number of claimants includes some individuals who do not receive UI benefits but who are counted among the insured unemployed for any given week. These individuals are mostly in three groups: (1) those who are on a one-week waiting period before the beginning of their benefit spell; (2) claimants who are ultimately denied benefits for nonmonetary reasons; and (3) claimants who are disqualified from collecting benefits in a given week either because they are not able and available to work or because earnings from a part-time or temporary job exceed a given level. The inclusion of these groups has tended to inflate the measure of UI recipiency by 10 to 15 percent per year. Thus, the third measure of recipiency—actual weeks compensated as a percentage of total unemployment—excludes claimants who do not receive benefits in any given week (see Figure 4-2).

Trends in Recipiency

UI recipiency is highly cyclical. The measure increases sharply during recessions, because a higher percentage of the unemployed have lost (rather than quit) jobs, and are therefore more likely to meet nonmonetary eligibility requirements. In addition to cyclical movements, there have been two noteworthy trends in the level of benefit receipt. According to each of the three measures of recipiency just discussed, two significant trends emerge with respect to the percentage of unemployed workers who receive UI benefits under regular state programs. The first is a long-term trend in which the national

FIGURE 4-2. Recipiency Rates for Regular State UI Programs, 1947-1994



NOTE: See text for discussion of the three ratios.

SOURCES: Council of Economic Advisors (1995); U.S. Department of Labor (1995d).

TABLE 4-2. Ratio of Unemployment Insurance Claimants to Total Unemployment, by State, 1995

State	IU/TU	State	IU/TU
Rhode Island	65.0	Nebraska	31.5
Alaska	61.7	Maryland	31.1
Vermont	58.6	West Virginia	29.7
Oregon	54.2	Missouri	28.7
Washington	52.1	Kentucky	28.6
Hawaii	51.0	Ohio	28.6
Connecticut	49.0	Michigan	28.3
Idaho	47.4	South Carolina	28.1
Pennsylvania	46.1	Colorado	27.9
Wisconsin	43.6	Tennessee	27.6
Arkansas	42.1	North Carolina	26.1
Montana	41.6	Arizona	25.7
Massachusetts	41.5	Kansas	25.2
New York	41.3	Mississippi	25.2
Delaware	41.1	New Mexico	24.3
Maine	39.2	Florida	23.8
New Jersey	39.0	New Hampshire	22.5
California	37.5	Alabama	22.0
Illinois	37.2	South Dakota	21.4
Wyoming	35.5	Utah	21.4
District of Columbia	34.9	Texas	21.1
Minnesota	34.6	Oklahoma	21.0
North Dakota	34.5	Georgia	20.6
Nevada	34.4	Louisiana	20.0
Puerto Rico	33.7	Indiana	19.4
Iowa	33.3	Virginia	17.6

NOTES: Data for the Virgin Islands are not available. Data are for the second quarter of calendar year 1995.

SOURCE: U.S. Department of Labor (1995c).

TABLE 4-3. Percentage of Monetarily Eligible Job Losers Who Receive UI Benefits, by State, 1989-1991

State	Percentage of Eligible Recipients	State	Percentage of Eligible Recipients
Arizona	32.3	Tennessee	59.1
Maryland	40.8	Minnesota	61.0
North Carolina	47.2	California	61.2
Texas	49.3	Wisconsin	63.9
Indiana	50.5	Washington	64.0
Georgia	51.3	Ohio	65.4
South Carolina	51.9	Virginia	65.8
Florida	52.0	Oregon	67.1
Oklahoma	54.5	Massachusetts	69.5
Michigan	55.1	New York	69.6
Missouri	55.5	Pennsylvania	73.8
Mississippi	56.0	West Virginia	78.6
Illinois	57.9	New Jersey	80.1
Louisiana	59.0	Connecticut	82.5

SOURCE: ACUC calculations using the SIPP for those states with a sample of at least 30 job losers for whom monetary eligibility could be simulated.

recipiency percentage has declined slowly and consistently since the 1940s—despite the increase in coverage of workers during that time. The second is a more recent trend in which the recipiency percentage dipped dramatically between 1980 and 1984. By 1984, the number of UI claimants as a percentage of total unemployment had dropped to 28.5 percent, the lowest recorded percentage since data were first collected in 1947. The ratio increased slightly after 1984, but it has remained lower than its historical average.

Further, as indicated in Table 4-2, recipiency measures vary not just over time, but also across states. The ratio of claimants to total unemployed ranged from a low of 17.6 percent in Virginia to a high of 65.0 percent in Rhode Island during the second quarter of 1995. Additional estimates from the SIPP, reported in Table 4-3, indicate substantial variation across the states in the percentage of monetarily eligible job losers who actually receive UI benefits.

Research on the Long-Term Decline in Recipiency

Burtless and Saks (1984) suggest that a primary cause of the long-term decline in the ratio of UI claimants to the total number of unemployed (IU/TU) before 1980 was the changing demographic composition of the jobless. Throughout the 1960s and 1970s, as many women and young workers from the baby boom generation entered the labor force, they also became a higher percentage of the unemployed. As a result, men of prime working age, who are statistically the most likely to receive UI benefits, declined considerably as a percentage of the unemployed. Burtless and Saks find that such demographic changes explain a large percentage of the decline in the IU/TU ratio before 1980. The shift of workers from manufacturing and other industries with high UI recipiency rates was also identified by Burtless and Saks as a primary cause of the long-term decline in recipiency, although they report that it is quite difficult to estimate with precision the magnitude of this effect.

Research on the Recent Decline in Recipiency

While there is still considerable inconsistency in the findings from research examining the decline in UI recipiency that occurred in the early 1980s, the following factors have emerged as the most common explanations of this short-term decline: (1) federal and state policy changes, (2) population shifts to states with traditionally low UI claims rates, (3) the decline in the unionized percentage of the workforce, and (4) the decline in the manufacturing sector of the economy. Table 4-4 summarizes the magnitude of each of these effects, as found by those who have done empirical research in this area.

Evidence on Cost-Shifting

An additional possible source of the decline in UI recipiency among the unemployed is "cost-shifting" by the states. While the states pay for almost 100 percent of UI benefits, the federal government provides substantial subsidies for means-tested programs. Federal matching rates for the AFDC program currently range from 50 to about 80 percent, and the Food Stamps program is 100 percent federally financed. These federal subsidies could create powerful incentives for states to shift low-income unemployed individuals from UI to AFDC and/or the Food Stamps program. The shifting could be done through increases in monetary eligibility requirements (which would reduce the number of low-wage workers who are eligible to receive UI) or

TABLE 4-4. Summary of Studies Explaining Short-Term Decline in Recipiency

Authors	Time Period Analyzed	Percentage of Decline Explained by: Policy Changes	Population Shifts	Change in Unionization	Change in Manufacturing
Baldwin & McHugh (1992)	1979-1990	54	—	29	16
Blank & Card (1991)	1977-1987	0	50	25	—
Corson & Nicholson (1988)	1980-1982	21-54	16	—	4-18
Vroman (1991)	1967-1989	—	25	—	—

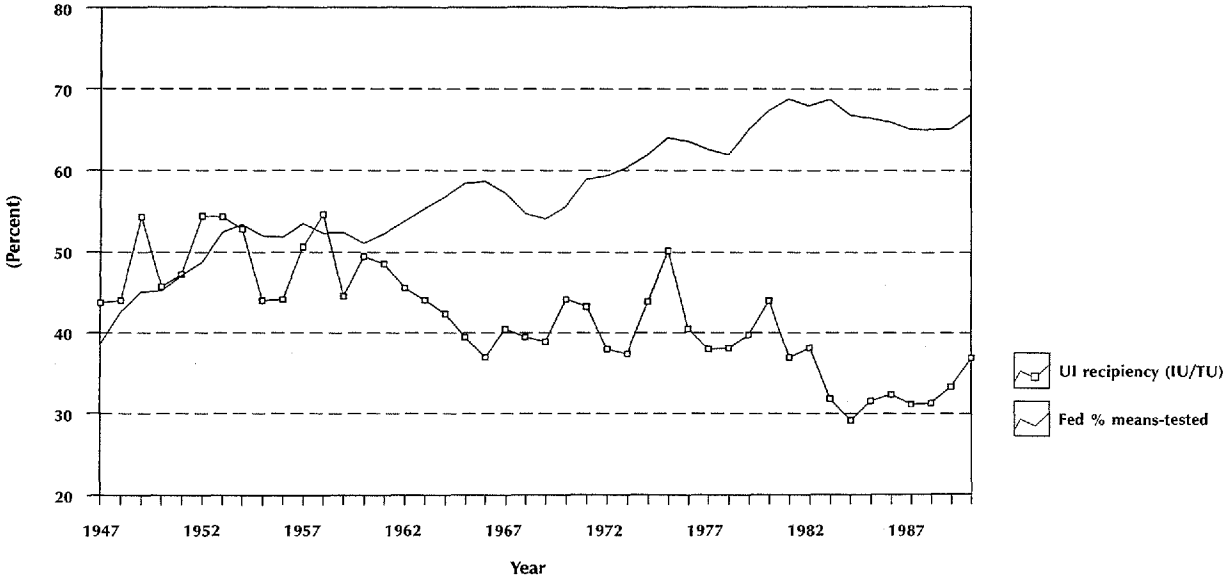
NOTE: The specific measure of recipiency used by researchers in examining this question has varied. While Corson and Nicholson (1988) examined both the IUR/TUR and the IU/TU, they focused primarily upon the IU/TU, which they call the UI claims ratio. Blank and Card (1991) also examined this measure, which they call the fraction of insured unemployment. Vroman (1991) focused upon the IU/TU. Baldwin and McHugh (1992) examine IU/TU, but include Extended Benefits recipients in addition to regular state UI recipients. The analysis by Baldwin (1993) found much smaller effects from policy changes, but these results could not be readily decomposed into the categories of explanatory variables included in this table.

through changes in nonmonetary eligibility requirements (which also might have a disproportionate impact on low-wage workers).

There is considerable evidence that many states' UI systems do, in fact, discriminate against low-wage workers either directly or indirectly (ACUC 1995; Bassi and Chasanov, forthcoming). In addition, Figure 4-3, which plots recipiency rates against the percentage of means-tested expenditures that are financed by the federal government, strongly suggests that cost-shifting may have occurred.

For purposes of this report, regression analysis was used on a state panel database to test the cost-shifting hypothesis. The panel included data on the 48 contiguous states from 1979 to 1990. The dependent variable was the IU/TU; the independent variables were those other researchers have typically used when estimating recipiency regressions. Three additional variables were included—the federal AFDC matching rate, per capita federal AFDC expenditures, and per capita Food Stamps expenditures within each state. These

FIGURE 4-3. Federal Percentage of Means-Tested Public Assistance Expenditures and UI Recipiency Rate (IU/TU), 1947-1990



NOTE: Means-tested programs considered are Aid to Families with Dependent Children; Food Stamps; Emergency Assistance; Women, Infants, and Children Nutrition Program; and General Assistance.

SOURCES: Office of Management and Budget, unpublished data (various years); U.S. Department of Labor (1995d).

three variables were lagged one year. To avoid bias caused by unmeasured heterogeneity, the model was estimated in first differences, meaning that regression results were based on annual changes in the included variables, rather than on the actual levels of the variables. Details on the construction of the database and the regression results are reported in Appendix A.

Overall, the regression results provide evidence of cost-shifting. They suggest that an increase in either per capita Food Stamp receipts or in the AFDC matching rate is followed by a decline in the IU/TU, although the AFDC effect is only significant in a first differences model.[15] The AFDC matching rate, however, has little capacity to explain changes in the IU/TU, since there has been virtually no change in the matching rate over time. Per capita Food Stamp expenditures, however, have changed significantly over time.[16]

Figure 4-4 plots the actual IU/TU rate, as well as an ACUC estimate of what the IU/TU rate would have been if states had not shifted individuals from UI to Food Stamps. The estimates indicate that cost-shifting helps explain the long-term decline in UI recipiency. For example, cost-shifting behavior appears to account for 64 percent of the decline between 1971 and 1993. These findings suggest that much of the decline in the IU/TU that other researchers have attributed to "policy changes" (see Table 4-4) has taken the form of states shifting costs to the federal government.

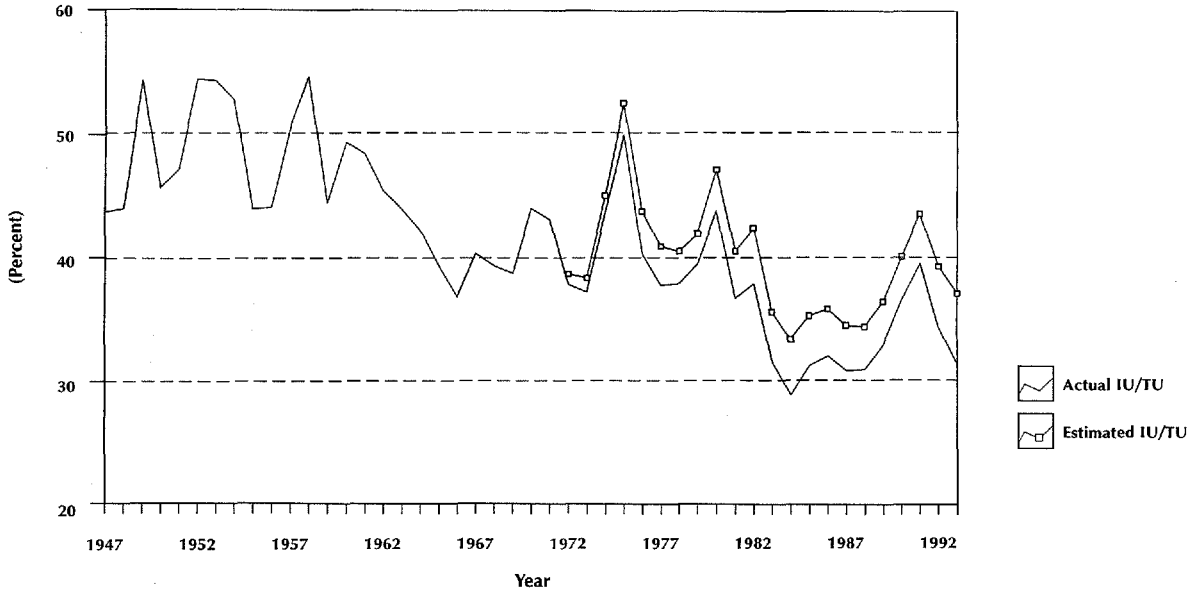
It should be noted that, during some of this period between 1971 and 1993, the federal government was inducing states to improve the solvency of their UI programs, and the states responded in part by restricting eligibility. The growing incentives for states to shift individuals from UI to federally subsidized programs may have made states more willing to comply than they would have been otherwise.

REPLACEMENT RATES AND POTENTIAL DURATION OF BENEFITS

With respect to the actual receipt of benefits under the UI program, there are two important measures of the system's generosity—the replacement rate and the potential duration of benefits. The replacement rate measures the percentage of an unemployed individual's lost earnings that are replaced by UI benefits. The potential duration of benefits provides a measure of how long UI recipients can expect to be able to rely on the system for partial income replacement.

Many of the founders of the Unemployment Insurance system argued that benefits should replace 50 percent of lost earnings. They believed that this percentage was high enough to allow workers to purchase basic necessities, but not so high as to discourage prompt return to work (see Blaustein 1993).

FIGURE 4-4. Actual IU/TU and Estimated IU/TU in the Absence of Cost Shifting to Food Stamps, 1947-1993



SOURCES: U.S. Department of Commerce (1994); U.S. Department of Labor (1995d); and ACUC calculations as described in Appendix A.

TABLE 4-5. Comparison of Replacement Rates Reported by U.S. Department of Labor and Actual Replacement Rates, Various States and Years

State	Year	DOL-Reported Replacement Rate (percent)	Actual Replacement Rate (percent)	Percentage of Recipients for Whom Replacement Rate Is Greater Than 50%
Illinois	1984-1985	35	62	70
Michigan	1994	39	52	76
Pennsylvania	1988-1989	42	72	77
Texas	1994	38	68	80
Washington	1988-1989	38	63	90
Wisconsin	1994	39	71	83

NOTE: These were the only states for which the ACUC could obtain data on the actual replacement rate.

SOURCES: U.S. Department of Labor (1995d); unpublished data from Illinois, Michigan, Pennsylvania, Texas, Washington, and Wisconsin.

A number of presidents including and following Dwight D. Eisenhower have endorsed a goal of 50 percent replacement of lost earnings within the UI system. President Richard M. Nixon advocated that the UI system should replace 50 percent of lost earnings for four-fifths of all recipients (see O'Leary 1994). Both the National Commission on Unemployment Compensation (1980) and the Advisory Council on Unemployment Compensation (1995) endorsed "one half for four-fifths" as an appropriate goal.

Unfortunately, almost no cross-section data are available on replacement rates, and no data whatsoever are available on changes in replacement rates over time. The U.S. Department of Labor (DOL) does report what it refers to as a "replacement rate," but it defines this measure as the ratio of average benefits paid to UI recipients to average wages paid in all of covered employment. Because this ratio compares data for two different populations, it does *not* measure the extent to which UI benefits replace the wages of those individuals who are actually unemployed and actually receive benefits.

Table 4-5 summarizes unpublished data on the actual replacement rate in the only six states for which the ACUC could obtain data. When compared with the DOL-reported replacement rates for comparable time periods, these data indicate that the reported rates significantly *understate* the actual

TABLE 4-6. Comparison of Replacement Rates Reported by U.S. Department of Labor and Actual Replacement Rates, Based on SIPP Simulations, All States, 1978 and 1990

Year	DOL-Reported Replacement Rate (percent)	Average Replacement Rate of UI Recipients in SIPP (percent)
1978	36	64
1990	36	63

NOTE: SIPP replacement rates are defined as the average weekly benefit amount divided by (base period earnings/52).

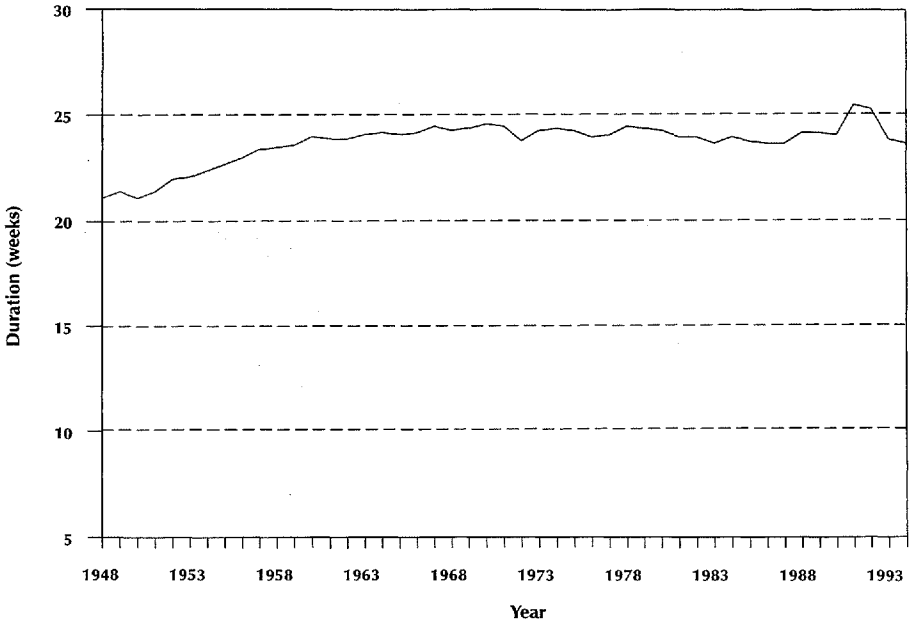
SOURCES: Analysis of unemployment spells between 1989 and 1992 using the 1990 SIPP Full Panel Research File and Wave 2 Personal History Topical Module (described in Appendix A); U.S. Department of Labor (1995d).

replacement rate in all six states. In five of the six states, the actual rate is understated by between 25 and 30 percentage points. Furthermore, all six states either exceed or almost meet the goal of replacing 50 percent of lost earnings for four-fifths of UI recipients.

Alternatively, the SIPP can be used to calculate actual replacement rates. The average replacement rate of UI recipients in the SIPP (see Table 4-6) is comparable to the average of the six states, as discussed above.[17] Thus, the replacement rate found in the SIPP is also substantially greater than the officially reported replacement rate. By calculating what the replacement rate would have been in 1990 if the equivalent of 1978 benefit formulas were used, it is also possible to assess how replacement rates have changed over time. These calculations indicate that replacement rates were decreased by only one percentage point in the 1980s. Thus, the replacement rate appears to have remained relatively constant over time. It should be noted, however, that replacement rate calculations refer to pre-tax income. The subjecting of UI benefits to federal income tax in the 1980s reduced the effective replacement rate for UI recipients.

As noted above, another component of UI benefits besides the replacement rate is their potential duration. The U.S. Department of Labor collects information on the number of weeks for which UI claimants are qualified to receive benefits. Figure 4-5 indicates that the average potential duration of UI benefits increased by a modest amount during the 1950s and has been nearly constant since then.[18]

FIGURE 4-5. Average Potential Duration of UI Benefits (in weeks) for All UI Claimants, 1948-1994



NOTES: Line denotes the average potential duration of benefits calculated for all UI claimants. The 1979 figure for duration of benefits was interpolated due to erroneous data.

SOURCE: U.S. Department of Labor (1995d).

Overall, therefore, evidence on both replacement rates and benefit duration suggests that the system's relevance has remained relatively steady over time with respect to the needs of those unemployed workers who actually receive benefits. The evidence also suggests that the program's capacity for providing income support is substantially higher than is indicated in some official statistics.

UI TAX RATES

Each of the worker-oriented measures of program generosity described above is affected by the other side of the UI system, the collection of taxes. When average UI tax rates are relatively high, trust funds can support higher benefit levels and/or a larger number of recipients. (Similarly, higher benefits or increased numbers of recipients require higher taxes.) Conversely, relatively low tax rates tend to result in pressures to reduce benefit levels or to increase eligibility standards. Thus, the framework within which UI tax rates are established can be expected to have a direct impact on the worker-oriented measures discussed in this chapter.

The current system of financing the federal-state UI system imposes some minimal federal standards, but generally provides states with significant discretion in determining levels of UI taxes, as well as eligibility standards and benefit levels. It has been suggested that such a system may be susceptible to pressures related to interstate economic competition. If this were the case, then tax rates would be expected to be lower than they would without such competition, and eligibility and/or benefits would also tend to be tightened as a result. This section presents the results of an empirical examination of whether such competition has manifested itself in the UI system.

The tax provisions for financing the UI system are contained in the Federal Unemployment Tax Act. Under this law, a federal unemployment insurance tax is imposed on employers, with a partial credit provided to employers in states that have a UI system that meets minimum federal standards. Currently, the FUTA tax credit to employers is $378 per worker who earns at least $7,000. Since the passage of FUTA, this large financial incentive has ensured that all states have had UI systems that have almost always met federal standards.

As noted above, the federal requirements that states must meet are quite general, providing states with a great deal of discretion in making UI policies. In order to qualify employers in the state for the FUTA tax credit, a state must (1) levy a separate tax that is used only to finance UI benefits; (2) have a taxable

wage base that is at least as high as the federal taxable wage base; and (3) have a maximum tax rate of at least 5.4 percent, which is adjusted for the individual employer only on the basis of that employer's experience with unemployment.

Prior to the passage of the Social Security Act in 1935, only the state of Wisconsin had a UI program, which operated on an extremely limited basis. Although other states were interested in creating such programs, they could not do so, in large part because of concerns that an employer-financed UI system would put the employers in their states at a competitive disadvantage: "The perceived threat of competitive disadvantage [proved to be] an effective barrier to individual state action on unemployment insurance" (Blaustein 1993, 128). The genius of the FUTA tax structure was that it reversed this situation, creating a competitive *disadvantage* for employers in states that do not have a UI program.

Nevertheless, relative to other states, states can still gain a competitive advantage for employers by only minimally satisfying the federal standards, thereby qualifying employers for the FUTA tax credit while minimizing their tax burdens. Although concerns about the welfare of involuntarily unemployed workers may deter a state from reducing its UI program to the minimum allowed by federal law, competition among the states to attract and retain employers and jobs may put states under considerable pressure to have smaller UI programs than they would otherwise. Interstate competition could even set off a "race to the bottom," with some states cutting UI payroll taxes to gain a competitive edge and other states responding, and another round of tax cuts ensuing.

Hoyt (1995) and Weaver (1995) have outlined economic and political science models, respectively, that can be used to explore the possibility of pernicious interstate competition within the UI system. Principles suggested by these models were examined for this report in an empirical exploration of state interactions in setting tax rates. This analysis was conducted using a state panel database that contains information from 1977 to 1990. Details of the construction of the database and the results from the regressions are presented in Appendix A.

The basic model for testing the hypothesis used an observed state's UI tax rate (measured as a percentage of covered wages) as the dependent variable. Independent variables included various measures of the UI tax rates in other states, lagged by one year, as well as a set of other potentially important explanatory variables (for example, the state's unemployment rate, measures of state government, and the percentage of workers who belong to unions).

The following expected outcomes of a "race to the bottom" were examined empirically:

1. The UI tax rates of nearby states should have a larger effect than the UI tax rates of states that are farther away.

2. There should be an asymmetric response to the UI tax rates of other states. In particular, an observed state's UI tax rate should respond more to those states with lower UI tax rates than to states with higher UI tax rates.

3. The effect of UI tax rates in more populous contiguous states should be greater than the effect of UI tax rates in less populous contiguous states.

4. Holding all else constant, more populous states should be able to resist the pressures of interstate competition more successfully than less populous states can.

The regression results reported in Appendix A provide compelling evidence in support of these hypotheses. Briefly, the results are as follows:

1. There is strong evidence that states respond in some way to the UI tax rates of all other states. In general, a given state's UI tax rate as a percentage of total wages tends to move in the direction of other states' tax rates (lagged one year). On average, a contiguous state has a much greater effect on the level of a given state's UI tax rate than a noncontiguous state does.

2. An observed state's UI tax rate responds more to lower than to higher rates in other states. That is, a state responded more when, in the previous year, other states in a given category had, on average, *lower* UI tax rates than its own. It responded less when the other states' average UI tax rates were *higher*.

3. Additional regressions supply evidence that, on average, the tax rate of the most populous contiguous state has a greater impact than other contiguous states' tax rates in determining the tax rate of any given state.

4. Holding all else constant, a state's tax rate is moderately higher when its population is relatively large in comparison with that of contiguous states.[19]

The coefficient estimates (their signs, significance, and rank ordering) are entirely consistent with a priori expectations of theoretical models of interstate competition.

SUMMARY AND CONCLUSIONS

The nation's Unemployment Insurance system, which consists of 53 separate state programs (in the 50 states and in the District of Columbia, Puerto Rico, and the Virgin Islands), is both highly complex and dynamic. The complexity can be seen in the diverging paths of some of the measures of the system's relevance to the needs of workers. Measures of coverage clearly suggest that the relevance of the system has increased, because numerous workers who were once excluded from coverage are now covered under the system. Available evidence on the measures of replacement rates and potential duration of benefits suggest that the system has generally maintained historic levels of generosity in those areas.

The time trend in the percentage of the unemployed who receive UI, however, reveals a long history of steady decline—punctuated by occasional sharp decline—in the generosity of the program. Available evidence on the percentage of the unemployed who are eligible for benefits is also indicative of a slight decline in eligibility since the late 1970s.

Of all of these dimensions of generosity, coverage—which has increased—is the only aspect of the UI program that is directly controlled by the federal government. All of the rest—replacement rates, potential duration of benefits, recipiency rates, and eligibility—are either directly or indirectly under the control of the states. This suggests that, while the federal government has acted to expand generosity in the one dimension of the program that it controls, states' actions have resulted in a decline in generosity in terms of eligibility for and receipt of benefits.

As noted above, however, there does not appear to be a significant deterioration of the benefits (in terms of replacement rates or potential duration of benefits) for the shrinking percentage of the unemployed who are eligible for and who receive benefits. This suggests that states have cut back instead on their UI programs mostly by limiting access to the program rather than by reducing the generosity of the benefits that claimants receive.

The evidence presented in this chapter suggests that two significant forces have shaped the evolution of the Unemployment Insurance system. One of these is embedded in the federal-state structure of the program. Although federal law effectively forces the states to have a UI program, it does not prevent them from administering only a minimal system, and it provides no support against competitive pressures that may act upon the states and adversely affect their UI programs. Other researchers have attributed the decline in some elements of the UI system to the effects of changes in state policy as well as to demographic and industrial shifts, but the evidence presented here indicates that state policies are endogenous to the system.

In essence, the findings of this chapter suggest that the failure of the system to respond to changes in the nation's demographic and industrial composition is an outcome, rather than a cause, of the decline in some aspects of the system's relevance. Similarly, increasingly restrictive state policy is the means by which states respond to the competitive pressures within the system. Finally, the decline in UI recipiency that some researchers have attributed to "population shifts" may well be the result of a broader movement of jobs from states with higher employer taxes (of which UI taxes are but one component) to states with lower taxes.

The second force that has driven the evolution of the system is inherent in the methods by which alternative social insurance programs are financed. Because the federal government provides substantial subsidization for means-tested programs, states face an enormous price differential in the provision of assistance to unemployed, low-income individuals. It is much less expensive for them to provide a certain level of assistance through a means-tested program than through their own UI system.

The two forces discussed here no doubt interact. As states respond to competitive pressures by ratcheting down their UI programs, the easiest way for them to do so is by shifting low-income individuals onto means-tested programs. If the major means-tested programs (AFDC and Food Stamps) were converted to block grants to the states, as is currently being proposed, then the financial incentives for states to shift low-wage individuals from UI to these programs would be reduced. Nonetheless, the underlying pressures from interstate competition would remain. Thus, the evidence presented here suggests that fundamental changes in the method by which means-tested programs are financed might provide, at most, a temporary reprieve to the UI system from its inherent tendency to allow its relevance to erode in the face of continuous change.

NOTES

1. One exception is the recent analysis by Craig and Palumbo (1994), which documents a trade-off between UI and AFDC benefits. The authors do not, however, analyze the implications of this trade-off for changes in UI recipiency over time.

2. Blaustein (1985) suggests that the decision to limit coverage was primarily a practical decision, in that it would allow the administrative burden to be lessened during the first years of the program while still ensuring that a significant percentage of workers would be covered. Blaustein suggests that there was always an expectation that coverage would be extended—ultimately to all workers who could be subject to involuntary unemployment. Others, however, have suggested darker reasons for some of the coverage exclusions; in particular, they argue that the decision to exclude agricultural labor from coverage was rooted in discrimination and racism (see Norton and Linder, forthcoming).

3. Many states, however, chose to adopt more liberal coverage standards from the beginning, particularly in requirements on the size of firm. The existence of more liberal coverage standards in various states has continued throughout the history of the program.

4. This provision did not apply to employees of churches or other religious organizations. Nonprofit employers were offered the choice of reimbursing the state for only those benefits chargeable to them or paying the state UI tax in the same manner as other covered employers. Nonprofit employers were also offered the option of forming a group to pool their benefit liabilities through a common reserve fund. All nonprofit organizations remained exempt from the *federal* unemployment tax.

5. The reimbursement option was made available to all state and local government employers, and such employers remained exempt from the federal unemployment tax.

6. Employers with 10 or more agricultural workers in at least 20 weeks of the year or with a payroll of at least $20,000 in any calendar quarter were required to pay UI taxes. Estimates suggested that at least 50 percent of agricultural workers would be included as a result of this change (Martin 1994).

7. Federal civilian employees were included in the system in 1954, when a separate program was created to cover them. Former members of the military were included under various pieces of legislation in the 1950s, with a separate program also created for them. Puerto Rico was included in the system as a "state" in 1960, and the Virgin Islands was included under the 1976 amendments.

8. Only two significant coverage exceptions remain. First, agricultural workers who are employed on farms that are defined as "small" are not covered in many states. Second, workers who are classified as "self-employed" are also excluded from coverage. (Ambiguities in the definition of "self-employed," however, have caused some workers who should be covered under some other coverage requirement to be excluded because they are classified as self-employed independent contractors.) In addition to these two primary exclusions, groups that include household workers of employers who pay wages of less than $1,000 per quarter and employees of religious organizations are also excluded from coverage.

9. Only covered wages are considered in making a determination of monetary eligibility. Thus, if an individual works in two jobs but only one of them is covered under UI, then only the wages from the covered job are considered in determining eligibility (and benefit levels).

10. The high-earnings requirement can result in the disqualification of part-time workers, especially those who work at the minimum wage.

11. Appendix A contains additional details about the SIPP simulations. The estimates reported in Table 4-1 understate monetary eligibility to the extent that individuals have underreported their income in the SIPP. According to the simulations, approximately 3 percent of the unemployed who are calculated to be ineligible for UI report that they do, in fact, receive UI. Thus, either the simulations are incorrect because of underreported income, or these individuals are receiving UI in error. Undoubtedly, some additional individuals who are simulated to be ineligible do, in fact, meet the monetary eligibility rules in their states but do not receive benefits.

An additional source of error results from using the state in which an individual resides as the basis for the simulations. To be completely accurate, the simulations should be based on the state in which an individual works (although this information is not available in the SIPP). Unlike underreporting of income, however, this latter source of mismeasurement is unlikely to cause any systematic bias in these estimates of eligibility.

12. Those states with the largest drop in their high cost multiple (a measure of trust fund reserves) increased their base period earnings requirement during the early 1980s by an average of $811 (in 1990 dollars), while states with an increase in the high cost multiple during the same time period slightly decreased the requirement (U.S. General Accounting Office 1993).

13. The IUR is defined as the number of regular UI benefit claimants divided by the average number of people in UI-covered employment over four of the last six completed calendar quarters. The TUR is defined as the number of all active unemployed job seekers divided by the total civilian labor force.

14. The numerator of the IUR is the number of regular UI claimants (A), and the denominator is the number of workers in covered employment. The numerator of the TUR is the number of unemployed workers actively seeking work (B), and the denominator is the number of workers in the labor force. The IU is A, and the TU is B. Therefore, the [(IU/TU)]/[(IUR/TUR)] equals the number of workers in covered employment divided by the number of workers in the labor force, which converges to 1 as coverage expands.

15. The AFDC matching rate was shown to be significant at the 0.05 level under a *first differences* regression model. It was not, however, significant in a model using the actual levels of the included variables. The AFDC per capita expenditures variable was also insignificant—a result that is not entirely unexpected. These results are discussed further in Appendix A.

16. The annual mean values for these variables and the additional variables used in the regression are contained in Table A-1 of Appendix A.

17. Income is known to be underreported in the SIPP, which would tend to cause the replacement rate to be overestimated.

18. The small variations in potential duration are cyclical. During recessions, people who are laid off tend to have higher earnings and higher labor force attachment than those laid off during nonrecessionary periods. Although the average length of benefits receipt has remained fairly constant over time, the length of unemployment spells has increased. Consequently, the percentage of UI recipients who exhaust their benefits (which is highly cyclical) appears to have increased slightly over time. Thus, it would not be unreason-

able to conclude that the potential duration of benefits has become somewhat less generous in the sense that it has not responded to increases in the duration of unemployment.

19. For technical reasons discussed in Appendix A, it is difficult to identify the magnitude of this effect with precision.

5 / Financing Unemployment Insurance

THE TAXABLE WAGE BASES and UI tax rates for employers established by the federal and state governments directly affect a broad range of policies, program goals, and administrative goals in the UI system. The taxable wage bases and employer tax rates are directly related to the amount of revenue that is available to states to pay benefits and indirectly related to the amount available for the administration of the system.

In addition, the taxable wage bases and employer tax rates affect the level of trust fund reserves. Adequate reserves are needed to maintain trust fund solvency and to achieve the advantages of a forward-funded system. During good economic times, a forward-funded system accumulates reserves that can be drawn on when demand for UI benefits increases during periods of recession. This capacity helps maintain consumer purchasing power and contributes to economic stability.[1] Thus, the taxable wage base and employer tax rates directly affect the ability of the UI system to meet its two primary objectives, as identified by the Advisory Council on Unemployment Compensation (1995): (1) the provision of temporary, partial replacement of wages as a matter of right to involuntarily unemployed individuals who have demonstrated a prior attachment to the labor force; and (2) the accumulation adequate funds during periods of economic health in order to promote economic stability by maintaining consumer purchasing power during economic downturns.

While both the taxable wage bases and the employer tax rates may affect UI program outcomes, no mechanism currently exists for influencing the average employer tax rate in the states on a broad scale. With regard to the taxable wage base, however, the FUTA tax credit virtually ensures that changes in the federal taxable wage base will have a direct effect on states' taxable wage bases. The effects of such changes in the federal taxable wage

base on UI program outcomes and the effects of the financing structure of the UI system are the focus of this chapter.

After a brief overview of the financing structure of the UI system, the chapter discusses some of the advantages and disadvantages of increasing the taxable wage base. First, it presents empirical research that examines the effects of changes in the state taxable wage base and tax rate on various measures of UI program outcomes. It then looks at changes in the taxable wage base and the proportion of covered wages in a historical context and discusses some of the effects of a low taxable wage base on low-wage workers. The chapter next explores the opposition to increases in the taxable wage base that stem from the inclusion of the UI trust fund in the federal unified budget and the constraints of the budget process. Finally, the issue of evaluating administrative funding levels is addressed, and a framework for linking state funding levels to performance is discussed.

BACKGROUND

The Unemployment Insurance system is financed through a combination of federal and state payroll taxes. The federal payroll tax, established by the Federal Unemployment Tax Act, is currently set at 6.2 percent of the first $7,000 of an employee's salary. Employers in states with Unemployment Insurance (UI) programs that meet specified federal guidelines receive a 5.4 percent credit toward their FUTA tax payment. The resulting net tax rate of 0.8 percent yields an employer cost of $56.00 per employee earning a minimum of $7,000. FUTA revenues are used to finance the state and federal administrative costs of the UI system, the federal portion of the Extended Benefits program, loans that are provided to states with insolvent trust funds, and other related federal costs.[2]

A state sets its own taxable wage base and tax rates, but must meet the following federal guidelines in order for employers in the state to receive the federal tax credit: (1) a separate tax must be levied that is used only to finance UI benefits, (2) the state taxable wage base must be at least as high as the federal taxable wage base, (3) the maximum state tax rate must be at least 5.4 percent and must only be adjusted through experience rating.[3] State revenues finance the payment of regular UI benefits and the state portion of Extended Benefits. In 1995, 42 states had taxable wage bases that were above the federal minimum of $7,000, and 18 had indexed their taxable wage base to the average annual state wage. Table 5-1 lists 1995 state taxable wage bases.

TABLE 5-1. State Taxable Wage Bases, by State, 1995

State	State Taxable Wage Base (dollars)	State	State Taxable Wage Base (dollars)
Hawaii*	25,500	Ohio	9,000
Alaska*	23,900	Texas	9,000
Idaho*	21,000	Delaware	8,500
Washington*	19,900	Georgia	8,500
Oregon*	19,000	Louisiana	8,500
New Jersey*	17,600	Maryland	8,500
Rhode Island*	16,800	Missouri	8,500
Utah*	16,500	Alabama	8,000
Nevada*	16,400	Kansas	8,000
Montana*	15,500	Kentucky	8,000
Minnesota*	15,300	New Hampshire	8,000
Iowa*	14,200	Pennsylvania	8,000
Virgin Islands*	13,900	Vermont	8,000
New Mexico*	13,500	Virginia	8,000
North Dakota*	13,400	West Virginia	8,000
Wyoming*	11,900	Arizona	7,000
North Carolina*	11,300	California	7,000
Massachusetts	10,800	Florida	7,000
Oklahoma*	10,700	Maine	7,000
Wisconsin	10,500	Mississippi	7,000
Colorado	10,000	Nebraska	7,000
Connecticut	10,000	New York	7,000
District of Columbia	10,000	Puerto Rico	7,000
Michigan	9,500	South Carolina	7,000
Arkansas	9,000	South Dakota	7,000
Illinois	9,000	Tennessee	7,000
Indiana	9,000		

NOTE: An asterisk (*) denotes that a state has indexed its taxable wage base to average wages.

SOURCE: U.S. Department of Labor (1995a).

Most states also use a series of tax rate schedules that allow them to shift from one schedule to another, based on factors such as trust fund solvency and economic conditions. For example, during periods of low unemployment when trust fund reserves are generally high, a favorable tax schedule (with lower tax rates for all experience-rating levels) would be used. Some states assess solvency surtaxes when trust fund reserves decline. As a result of the range of state taxable wage bases across states *and* the range of tax rates across and within states, the amount of state UI taxes paid by individual employers varies greatly.

EFFECTS OF CHANGES IN TAXABLE WAGE BASE AND TAX RATES

Program Outcomes

Empirical research was conducted by the ACUC staff to examine systematically the effects of changes in a state's taxable wage base and tax rate on various program outcomes, including trust fund solvency, receipt of benefits, and benefit levels. The results indicate that increases in a state's taxable wage base can produce increases in the state's reserve ratio;[4] also, increases in the taxable wage base are associated with slight increases in UI benefit levels. Following is further discussion of the model and the results.

Five regression equations were used to examine each of these UI outcomes: (1) the reserve ratio as a measure of trust fund solvency; (2) the percentage of the unemployed who received UI benefits (that is, the actual benefit recipiency rate);[5] (3) the percentage of the unemployed who were UI claimants (IU/TU);[6] (4) the maximum weekly benefit amount; and (5) the average weekly benefit amount. In the analysis, the state taxable wage base is measured as the difference between the state taxable wage base and the required federal wage base. The employer tax rate is measured as the ratio of total employer taxes paid to taxable wages. The means for each of these measures, for the states and years included in the model, are presented in Table 5-2.[7] The analysis used a fixed effects regression model and a database that included annual, state-level data for the 50 states and the District of Columbia from 1978 to 1990.[8]

Taxable Wage Base

The analysis revealed that the primary effect of increasing the state taxable wage base is a significant increase in a state's reserve ratio. Results also suggest a

TABLE 5-2. Means of Key Variables from Regression

Variable	Mean
Explanatory Variable	
State Taxable Wage Base over Federal Level	$ 1,644.95
Effective Employer Tax Rate	0.025%
Dependent Variable	
Reserve Ratio	1.38
Recipiency	0.30
IU/TU	0.35
Maximum Weekly Benefit Amount	$ 156.09
Average Weekly Benefit Amount	$ 121.33

NOTE: Data are for 1978 to 1990 and include the 50 states and the District of Columbia. All dollar-value variables are in 1993 dollars.

SOURCE: ACUC staff calculations using a database compiled from the following: Council of State Governments (1970-1994); U.S. Department of Labor (1995a, b, c); U.S. Department of Labor, Bureau of Labor Statistics (1995c); and U.S. General Accounting Office (1993).

small but positive relationship between the taxable wage base and both measures of benefit generosity (see Table 5-3). Overall, the results indicate that, holding all else constant, a $1,000 increase in the taxable wage base increases a state's reserve ratio by an average of 0.14 (see column 1 of Table 5-3.) This finding supports the view that increases in the taxable wage base would help states increase trust fund reserves, thereby improving the UI system's capacity to achieve one of its fundamental goals—economic stabilization.

Results of the analysis also indicate that increases in the state taxable wage base would be expected to result in slight increases in benefit levels. According to the model, a $1,000 increase in the state taxable wage base would, on average, increase the maximum weekly benefit level by $3.70 and the average weekly benefit level by $1.80 (see columns 4 and 5 of Table 5-3).

Equations examining the effect of state taxable wage base changes on the receipt of benefits produced some unexpected results. The results suggest that increases in the state taxable wage base produce slight decreases in both actual recipiency and the IU/TU ratio. A $1,000 increase in the state taxable wage base would be expected to decrease the percentage of the unemployed who file for and receive benefits by 0.38 and 0.39 percentage points, respectively (see columns 2 and 3 of Table 5-3). The negative relationship is counterintu-

TABLE 5-3. Generalized Least Squares Regression Results, 1978-1990

Explanatory Variables	Dependent Variables									
	Reserve Ratio (1)		IU/TU (2)		Recipiency (3)		Maximum Weekly Benefit Amount (4)		Average Weekly Benefit Amount (5)	
State Taxable Wage Base over Federal Level	0.00014	(.00)	–0.00038	(.02)	–0.00039	(.01)	0.0037	(.00)	0.0020	(.00)
Employer Tax Rate	–0.19	(.00)	–1.96	(.00)	–0.018	(.00)	–0.43	(.74)	–2.15	(.01)
Percentage of Labor Force Unionized	–2.95	(.00)	54.19	(.00)	33.40	(.00)	31.71	(.24)	13.94	(.44)
Disqualification for Voluntary Quit	0.47	(.01)	–1.41	(.30)	–1.94	(.13)	22.19	(.00)	18.10	(.00)
Disqualification for Refusing Suitable Work	–0.18	(.14)	–1.16	(.23)	–0.98	(.29)	–5.98	(.10)	–2.88	(.23)
Disqualification for Misconduct	–0.11	(.41)	–2.28	(.04)	–1.18	(.26)	5.41	(.19)	–1.64	(.56)
State Government	0.027	(.55)	0.38	(.30)	–0.011	(.98)	1.44	(.29)	–0.54	(.55)
Required Base Period Wages for Benefits	–0.000071	(.22)	–0.0027	(.00)	–0.0022	(.00)	–0.000075	(.96)	–0.0029	(.01)
Total Unemployment Rate	–0.26	(.00)	–0.44	(.00)	–0.18	(.17)	–1.04	(.04)	0.64	(.06)
Denial Rate per Initial Claim	–0.22	(.63)	–18.30	(.00)	–20.62	(.00)	7.70	(.58)	–0.83	(.93)
Percentage of Employment Covered by UI	0.74	(.30)	–3.09	(.59)	4.47	(.41)	–66.27	(.00)	–31.14	(.03)
Average Weekly Wage	0.00038	(.73)	0.028	(.00)	0.030	(.00)	0.33	(.00)	0.32	(.00)
R^2 Statistic	.35		.20		.18		.14		.25	

NOTE: Significance levels are reported in fixed effects regression analysis that was used on data for the 50 states and the District of Columbia for the years 1978-1990. Missing data for the required base period wages for Michigan in the years 1982 and 1983 were estimated on the basis of data from 1981 and 1984. The state government variable for Nebraska was based on the political party of the governor, because the state has a unicameral legislature.

SOURCE: ACUC staff calculations using database compiled from the following: Council of State Governments (1970-1994); U.S. Department of Labor (1995a, b, c); U.S. Department of Labor, Bureau of Labor Statistics (1995c); and U.S. General Accounting Office (1993).

itive; if taken at face value, however, its small coefficient would suggest that the impact of state taxable wage base changes on recipiency are minimal.

Employer Tax Rates

The empirical analysis also revealed statistically significant relationships between employers' tax rates and four of the five outcomes examined.[9] The relationships, however, are negative—contradicting the expectation that increased revenues would increase reserves, recipiency, and benefits. The most likely explanation for these unexpected results is that the average tax rate may be an endogenous variable. That is, because the tax rate is partially determined by the dependent variables, it is difficult to isolate its effects on those variables. In addition, the tax rate is highly cyclical, which further complicates the task of isolating its effects.

National Effects

The regression results were then used to simulate the effects of increases in the federal taxable wage base on the national average of the reserve ratio. State reserve ratios were weighted by total state wages to produce the national averages presented in Table 5-4. The calculations assume that an increase in the federal taxable wage base would produce increases in states with taxable wage bases below the new federal level. For example, a $1,000 increase in the federal taxable wage would result in increases in the taxable wage bases of the 11 states currently at the federal level. The calculations suggest that increases in the states' taxable wage bases resulting from a new federal taxable wage base set at $8,000 would increase the reserve ratio by 0.05 and that a federal taxable wage base of $10,000 would increase the reserve ratio by 0.22. The effects of incremental increases in the federal taxable wage base are greater at higher wage base levels because more states would be required to raise their taxable wage bases in order to match the federal level. (For example, the effects of a $1,000 increase in the taxable wage base from $8,000 to $9,000 would be greater than the effects of a $1,000 increase from $7,000 to $8,000 because the former would affect more states.)

Trends in Taxable Wages as a Percentage of Total Wages

For reasons discussed later in this chapter, it is difficult to evaluate whether the FUTA tax generates enough revenue to fund the administration of the UI

TABLE 5-4. Estimated Effects of Different Federal Taxable Wage Bases on National Average of the Reserve Ratio

Federal Taxable Wage Base (dollars)	Reserve Ratio
7,000	1.25
8,000	1.30
9,000	1.37
10,000	1.47
12,000	1.70
14,000	2.94

SOURCE: ACUC staff calculations using database compiled from the following: Council of State Governments (1970-1994); U.S. Department of Labor (1995a, b, c); U.S Department of Labor, Bureau of Labor Statistics (1995c); and U.S. General Accounting Office (1993).

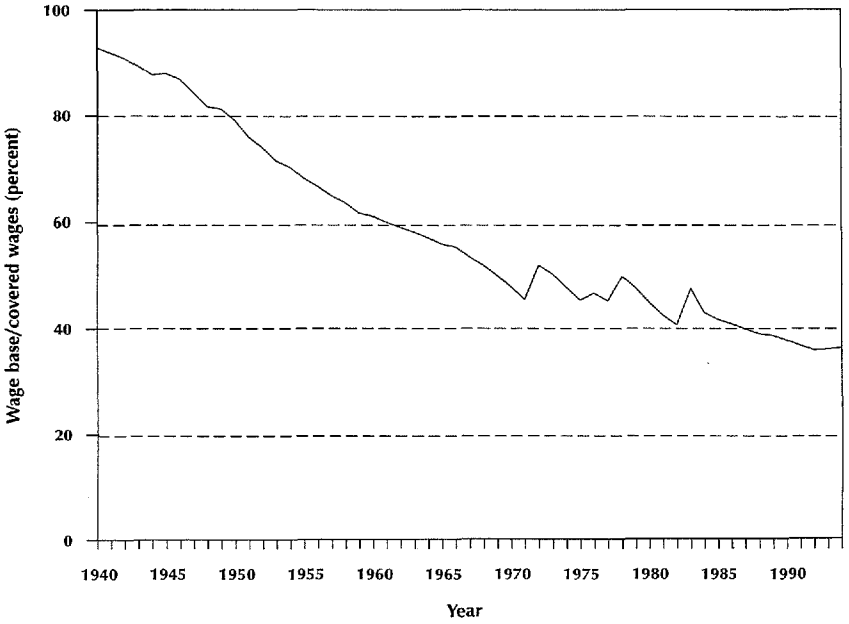
system sufficiently. The proportion of covered wages subject to UI taxes and the per worker cost of the FUTA tax over time, however, are known. The trends with respect to these two matters indicate that, contrary to some perceptions, an increase in the taxable wage base would not produce a historically high tax burden.

There have been only four changes in the federal taxable base in the more than 60-year history of the UI system. These increases have not kept pace with the increases in total covered wages and, as a result, the proportion of wages on which taxes are paid has declined, as illustrated in Figure 5-1.

The original unemployment provisions contained in the Social Security Act of 1935 called for a federal tax on employers equal to 1 percent of total payroll beginning in 1936. That percentage was to be increased to 2 percent in 1937 and to 3 percent in 1938. Employers could receive a credit of up to 90 percent of their federal tax obligation for their contributions to approved state unemployment compensation funds.

The Federal Unemployment Tax Act of 1939 amended those provisions of the Social Security Act, reducing the taxable wage base from total payrolls to the first $3,000 paid to each employee.[10] At the time, this change reduced the total amount of covered wages by only 8 percent. Over time, however, the impact of the $3,000 taxable wage base limit on FUTA tax revenues increased. As total wages increased, the proportion of taxable wages to total wages decreased. In 1948, about 82 percent of all covered payrolls were sub-

FIGURE 5-1. FUTA Wage Base as a Percentage of Total Covered Wages, 1940-1994



SOURCE: U.S. Department of Labor (1995d).

ject to the FUTA tax; by 1969, however, only half of all payrolls were covered. Federal legislation increased the taxable wage base to $4,200 in 1972; to $6,000 in 1978; and to $7,000 in 1983. In 1994, the ratio of taxable wages to covered wages had eroded to 36 percent, its lowest level in history.

In addition to increases in the federal taxable wage base, increases in the net federal tax rate have been adopted periodically to cover administrative costs that grow because of inflation, to support the Extended Benefits program, and to maintain funds for loans to state trust funds.[11] Table 5-5 depicts the changes in the FUTA tax rate and wage base, as well as the inflation-adjusted, per worker cost over time.

The inflation-adjusted per worker cost of UI captures the fluctuation of employers' federal UI tax burden as the federal tax rate and federal taxable wage base have changed over time. This employer cost measure has declined substantially from $93 per worker in 1978 (when the taxable wage base was increased from $4,200 to $6,000) to $56 per worker in 1993.

Effects on Low-Wage Workers

The federal and state taxable wage bases also affect the relative tax costs to employers of low- versus high-wage workers. When a taxable wage base is low in comparison to the average annual wage, employers with a high percentage of low-wage workers are required to pay taxes on a higher proportion of their total payroll than are employers with higher-paid workers. Further, research suggests that the incidence of a flat rate payroll tax (such as the FUTA tax) is often passed from the employer to the worker in the form of lower wages (Anderson and Meyer 1994). Thus, the FUTA tax is likely to represent a greater burden for low-wage workers than for higher-paid workers, because the FUTA tax burden that may ultimately be paid by workers represents a larger percentage of the total earnings of low-wage workers.

UI TRUST FUNDS IN UNIFIED FEDERAL BUDGET

The preceding discussion suggests that increases in the federal taxable wage base would generate a wide variety of improvements in program outcomes and would reduce the inequitable tax costs borne by low-wage workers without creating a historically high tax burden for employers. This approach, however, is complicated by the inclusion of the UI trust fund in the federal unified budget—which severely limits the use of FUTA funds despite the fact that they are specifically earmarked for the financing of the UI system. Thus,

TABLE 5-5. Changes in FUTA Tax Rate and Wage Base, by Year of Federal Unemployment Tax Act Provisions, 1939-1994

Year Effective	Gross FUTA Tax Rate (percent)	Offsetting Credit (percent)	Potential Net Tax Rate (percent)	FUTA Wage Base (dollars)	Inflation-Adjusted per Worker Cost (1994 dollars)
1939	3.00	2.7	0.30	3,000	96
1960	3.10	2.7	0.40	3,000	61
1970	3.20	2.7	0.50	3,000	57
1972	3.20	2.7	0.50	4,200	74
1973	3.28[a]	2.7	0.58	4,200	81
1974	3.20	2.7	0.50	4,200	64
1977	3.40[b]	2.7	0.70	4,200	72
1978	3.40	2.7	0.70	6,000	95
1983	3.50	2.7	0.80	7,000	83
1985	6.20	5.4	0.80	7,000	77
1994	6.20	5.4	0.80	7,000	56

SOURCE: Blaustein (1993); ACUC calculations using data from Council of Economic Advisors (1995).

[a] Reflects a 0.08 percent increase in federal unemployment tax rate in 1973 to pay for additional benefit costs.

[b] A temporary surtax was enacted in 1977 for the Extended Benefits program; it was extended in 1987, 1990, and again in 1993. It is due to expire at the end of 1998.

an increase in the federal taxable wage base (without some corresponding decrease in the FUTA tax rate) would increase the flow of funds into the federal accounts in the UI trust fund without any guarantee that these funds could be used in a timely manner for UI purposes. Predictably, this has sparked opposition to any increases in the federal taxable wage base. The genesis of this situation is discussed below.

The Federal Budgeting Process

Funding levels for the federally financed portion of the UI system are determined by the federal budget and appropriations process. The current budget-

ing system is workload-driven, based on the number of UI claimants and the number of covered employees. There are two categories of federal UI funding. *Base* funding includes all costs associated with the collection of taxes and an estimate of the minimum costs associated with the distribution of UI benefits. *Contingency* funding is provided when the actual claims workload exceeds the base estimates.

The minutes per unit (MPU) that it takes for states to perform specific tasks, average state salaries, and national economic assumptions are used to estimate state costs for administering state UI programs.[12] Contingency workloads are funded at lower salary levels than are those used for base funding, under the assumption that an additional workload is performed by temporary help with lower pay rates and benefit costs. The sum of the estimates for each of the states, theoretically, provides the basis for the annual federal budget request for funds for administering state UI programs.

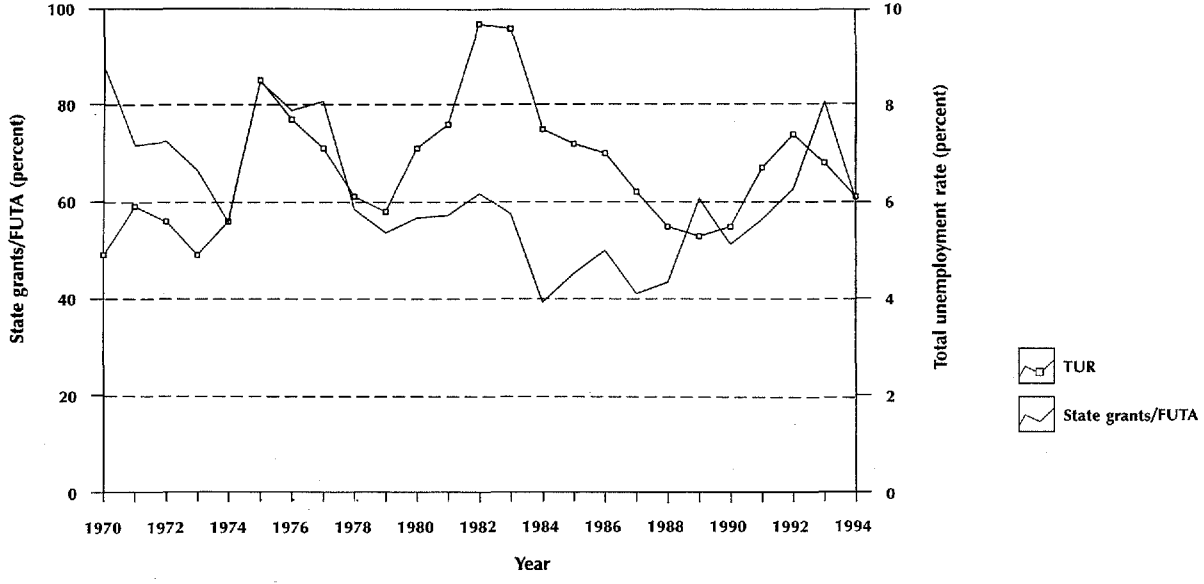
The funding that is available for administration of the UI system is limited to the level that is appropriated through legislation. It is largely unrelated to the balance of the federal UI accounts.[13] This violates the principle that holds that trust fund balances are accumulated and held in trust solely for a specified purpose. The inclusion of the UI trust funds in the federal unified budget creates an additional incentive to limit federal funding levels for UI, because federal budget offsets must be identified before additional FUTA funds can be appropriated for program administration in order to maintain budget neutrality.[14]

For the system of UI administrative funding, there are two primary implications of this inclusion of the UI trust funds in the federal unified budget. First, the system cannot respond to a justifiable demand from the states for increases in their administrative funding grants even if there are sufficient funds available in the trust fund account. Second, the system loses its capacity to increase spending automatically during recessions. As a result, one of the principal functions of the UI system—economic stabilization—is threatened.

Revenues and State Administrative Funding Levels

The relationship between states' FUTA contributions and the funding they get back in administrative grants has varied over time.[15] As shown in Figure 5-2, 85 percent of states' FUTA contributions were returned in the form of administrative grants in 1975; in 1988, this figure was only 43 percent; in 1992, it rose to 63 percent. Typically, a higher percentage of states' FUTA

FIGURE 5-2. State Administrative Grants as a Percentage of FUTA Contributions, 1970-1994



NOTE: 1993 FUTA data reflect a $967 million prior year FUTA adjustment.

SOURCES: Council of Economic Advisors (1995); unpublished data from U.S. Department of Labor, Unemployment Insurance Service.

contributions are returned during periods of high unemployment. The years 1982 and 1983, however, represented an exception; a relatively low percentage of FUTA revenues was returned to the states despite very high unemployment levels.

The portion of FUTA contributions that states receive back from the federal government as state UI grants (the subset of administrative grants that only include UI funding) also varies greatly across states (see Table 5-6). For example, in Fiscal Year 1993, the percentage ranged from 22 percent in Hawaii to 121 percent in Alaska. When *total* state administrative grants (including those for the Employment Service and other programs financed by

TABLE 5-6. Administrative Grants and UI Grants as Percentage of Each State's FUTA Contributions, 1993

State	Administrative Grant/ FUTA Contributions (percent)	Rank	UI Grant/ FUTA Contributions (percent)	Rank
Hawaii	28.6	1	22.0	1
Indiana	41.7	2	25.3	3
Florida	41.9	3	25.2	2
Tennessee	42.2	4	26.6	4
Georgia	42.5	5	27.4	6
North Carolina	43.1	6	27.5	7
Virginia	43.7	7	26.8	5
Ohio	47.3	8	29.9	8
Texas	47.4	9	30.0	9
Kentucky	49.0	10	31.0	11
Arizona	51.8	11	35.7	19
Massachusetts	51.8	12	38.2	22
South Carolina	52.2	13	34.5	16
Colorado	53.0	14	36.5	20
Louisiana	53.3	15	32.8	14
New Mexico	54.7	16	30.6	10
Alabama	55.3	17	36.8	21
Iowa	56.5	18	34.9	18
Minnesota	56.7	19	38.3	23
Missouri	58.4	20	40.7	25

(continued)

TABLE 5-6. (continued)

State	Administrative Grant/ FUTA Contributions (percent)	Rank	UI Grant/ FUTA Contributions (percent)	Rank
Oklahoma	59.2	21	32.5	13
Nebraska	59.4	22	31.9	12
Wisconsin	61.2	23	43.6	29
Mississippi	61.4	24	39.9	24
Arkansas	61.4	25	41.1	26
Maryland	62.0	26	45.0	30
Illinois	63.9	27	46.0	31
New Hampshire	65.2	28	43.3	28
Delaware	66.2	29	47.4	33
Nevada	66.5	30	48.2	34
West Virginia	70.2	31	43.1	27
Kansas	71.0	32	34.7	17
Michigan	75.5	33	55.5	38
New Jersey	75.7	34	58.2	40
New York	77.2	35	58.6	41
Pennsylvania	79.2	36	59.8	42
Oregon	81.0	37	61.7	44
Puerto Rico	83.8	38	52.5	36
Washington	85.3	39	65.6	45
District of Columbia	85.9	40	56.6	39
California	86.2	41	68.6	48
South Dakota	86.3	42	34.5	15
Utah	87.8	43	46.9	32
Vermont	98.2	44	65.7	46
Maine	99.1	45	73.4	50
Connecticut	101.8	46	82.9	51
Wyoming	105.7	47	55.2	37
Montana	107.5	48	52.0	35
Idaho	112.3	49	69.4	49
Rhode Island	122.3	50	98.7	52
North Dakota	125.7	51	60.2	43
Virgin Islands	155.0	52	66.8	47
Alaska	186.7	53	120.6	53

NOTE: State FUTA revenues are estimates.

SOURCE: Unpublished data from U.S. Department of Labor, Unemployment Insurance Service, Office of Actuarial Services.

FUTA) are considered, the percentages increase to 29 percent in Hawaii and 187 percent in Alaska. The variation in this ratio can be attributed both to the size of the grants and to the amount of revenue generated by FUTA in each state.

The level of administrative funding relative to a state's claims workload has also varied over time. Historically, there appears to be an inverse relationship between funding per claim and the overall unemployment rate (see Figure 5-3). That is, funding per claim is lower during periods of high unemployment. This is due, at least in part, to the decrease in fixed overhead costs *per claim* when the number of claims increases. The level of UI administrative funding per claim also varies significantly across states (see Table 5-7). In 1993, funding ranged from a low of $101 per claim in Puerto Rico to a high of $490 in Alaska.

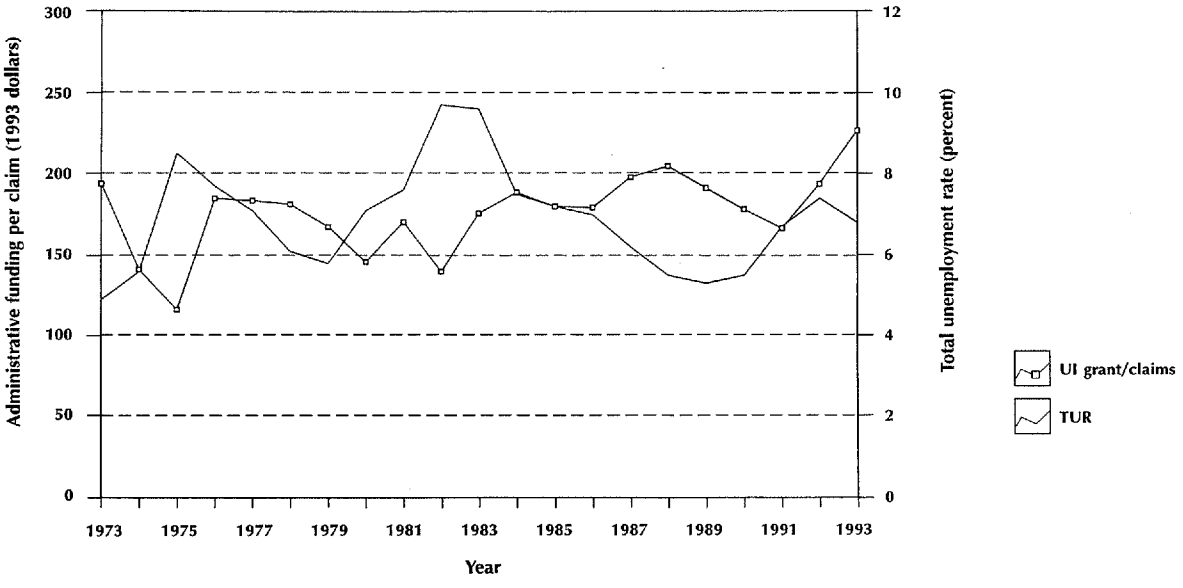
These factors represent some of the basis of opposition to increases in the federal taxable wage base. Most states contribute significantly more in FUTA revenues than they receive back in administrative grants. In 1993, for example (as shown in Table 5-6), half of the states had less than 65 percent of their FUTA contributions returned in the form of administrative grants. In addition, skepticism may affect even the states that receive more money than they contribute. They, too, would recognize that the total amount of funding available for administration in any given year is influenced heavily by national economic constraints and by the politics of the federal budget. As a result, there is little they can know about how any additional contributions would be used.

An Alternative Option

The inclusion of the UI trust fund in the unified federal budget creates a number of constraints on the funding of the UI system. In particular, it limits the use of FUTA revenues that are collected and held in trust for the administration of the UI system. As a result, it may be difficult to justify policies that increase FUTA revenue collections from the states by placing an additional tax burden on employers. Included among such policies would be a proposal to increase the federal taxable wage base in order to increase state taxable wages bases, thereby improving state UI program outcomes.

It is possible, however, to create a revenue-neutral increase in the federal taxable wage base by implementing a corresponding decrease in the net FUTA tax rate. A revenue-neutral adjustment would bring about higher taxable wage bases in some states, but would not create additional revenue for the federal trust funds—money that would then also be included in the federal unified budget. One example of a revenue-neutral adjustment would be

FIGURE 5-3. UI Administrative Funding per Claim, 1973-1993



NOTES: Administrative funding is based on state UI grants. Claims are based on new initial claims.

SOURCES: U.S. Department of Labor (1995b); unpublished data from U.S. Department of Labor, Unemployment Insurance Service.

TABLE 5-7. UI Administrative Funding per Claimant, by State, 1993

State	Claims (no., in thousands)	State UI Grant (dollars, in thousands)	State UI Grant/Claim (dollars)
Puerto Rico	167.0	16,867.9	101
Tennessee	241.6	28,837.6	119
Georgia	287.7	40,932.2	142
Alabama	204.6	29,221.5	143
Kentucky	151.3	21,884.5	145
South Carolina	170.2	24,831.8	146
Arkansas	116.4	18,723.3	161
North Carolina	261.3	42,728.7	164
Iowa	104.2	18,836.3	181
Missouri	245.1	44,427.6	181
Ohio	368.9	68,723.3	186
Florida	373.8	70,330.5	188
Virginia	185.5	35,545.2	192
Indiana	160.7	30,878.9	192
West Virginia	64.4	12,442.5	193
Louisiana	123.8	24,075.4	194
Mississippi	91.9	18,094.9	197
Texas	544.7	107,381.7	197
Michigan	529.7	104,773.2	198
Illinois	531.8	113,866.7	214
Oklahoma	83.5	17,997.4	215
Wisconsin	211.9	46,380.5	219
Montana	30.8	6,914.0	225
Kansas	74.2	16,991.3	229
California	1831.3	430,950.7	235
New Jersey	391.6	92,870.2	237
Pennsylvania	538.4	133,749.6	248
Washington	265.6	66,711.3	251
Oregon	151.0	38,228.5	253
Arizona	106.4	27,470.2	258
Massachusetts	261.9	69,359.6	265
New Mexico	38.6	10,404.2	269
Nebraska	36.7	10,214.0	278
New York	696.8	202,054.9	290

(continued)

TABLE 5-7. (continued)

State	Claims (no., in thousands)	State UI Grant (dollars, in thousands)	State UI Grant/Claim (dollars)
Hawaii	41.8	12,201.7	292
Colorado	101.1	29,609.1	293
Maine	56.2	16,664.4	296
Maryland	154.5	46,485.1	301
Vermont	23.8	7,228.2	304
Connecticut	192.3	58,757.8	305
Delaware	24.1	7,441.8	308
Minnesota	116.5	36,183.1	311
Rhode Island	58.2	18,158.8	312
New Hampshire	31.8	9,948.8	313
Nevada	60.4	18,979.0	314
Idaho	44.4	14,167.2	319
Virgin Islands	4.0	1,336.2	338
South Dakota	11.8	4,278.3	362
Wyoming	15.3	5,801.1	378
North Dakota	16.9	6,563.4	388
Utah	39.4	16,124.9	409
District of Columbia	26.9	11,208.7	417
Alaska	38.9	19,049.6	490
UNITED STATES	10,521.9	2,384,000.0	227

NOTE: Administrative funding is based on state UI grants. The number of claims represents new initial claims.

SOURCE: U.S. Department of Labor (1995b).

a $2,000 increase in the federal taxable wage base (to $9,000) and a decrease in the net FUTA tax rate to 0.6 percent. This would produce FUTA revenues that would be approximately 5 percent lower than they currently are, based on ACUC calculations from unpublished Bureau of Labor Statistics data.

ADMINISTRATIVE PERFORMANCE AND EFFICIENCY

Another issue related to federal UI taxes is how the level of state administrative funding should be determined. If the constraints of the budget process were removed, should *additional* federal funds be provided to the states for the administration of their UI programs, or are current levels of funding suf-

ficient to achieve desired performance outcomes?

The current absence of incentives for efficient behavior in UI program administration makes it impossible to determine whether current outcomes are a function of funding levels or of other factors that may shape administrative performance. This section discusses the current process for allocating administrative funds to the states, suggests the need for efficiency incentives in the allocation process, and presents some general principles for developing a set of administrative-outcome measurements that could be linked to state administrative funding levels. Such measurement systems are needed to prevent efficiency incentives from threatening program quality.

Allocating Administrative Funds

The budget for administrative funds is determined, as discussed above, by a formula based on estimated workload and is subject to the federal budget appropriations process. A lack of efficiency incentives for states is characteristic of the current administrative funding process. State performance outcomes are not considered when the overall funding levels for the UI system are determined, nor are they considered in the allocation of funds to the states. Furthermore, the formula used to distribute administrative funds to the states lacks incentives for efficiency, because more funds are provided to states that were determined to require more time to perform administrative tasks. The lack of efficiency incentives in the current administrative funding process makes it difficult to determine whether funding levels are sufficient for states to perform at desired outcome levels.

Some believe that higher-quality programs must be more expensive to run because, they assume, improving accuracy, timeliness, or other aspects of performance requires costlier staff, computer equipment, and other resources. Thus, decreases in funding would produce declines in some aspects of program performance. However, in a study of the relationship between program costs and quality, Vroman (1993) concluded that there is no statistical evidence to support the view that administrative costs are positively related to performance.[16] Other studies have examined the implications of a funding system based on average costs per unit of workload in high-quality or high-performance states.[17] The results suggest that many states that administer high-quality programs have relatively low costs.

Linking Performance, Efficiency, and Administrative Funding

Besides reducing wasteful spending and program costs, efficient program administration is necessary to determine whether administrative funding levels are adequate. The relationship between funding and performance is unclear. No research to date has addressed the key question of whether additional funding can improve poor performance. (This same question arises with respect to many publicly-provided services—for example, whether investing more money in school districts with poor performance records will improve education for children in those schools.) It is apparent, however, that if funds are being spent wastefully and programs are not run efficiently, there can be no basis for evaluating this question.

Davidson and Martin (1994) and Parsons (1994) have proposed similar conceptual frameworks for an allocation system that would promote efficiency. Both studies recommend that states be allowed to keep the savings generated by cost-cutting innovations in the administration of their UI programs. The studies refer to this provision as a *residual contract.* Allowing states to keep unused funds rather than requiring that they be returned to the federal government would encourage efficient behavior.

For a residual contract to be effective, the allocation of funds cannot be based on costs (which would undermine states' incentives to devise and implement cost-cutting techniques). Consequently, both Davidson and Martin (1994) and Parsons (1994) suggest the use of a "pay-for-performance" system in conjunction with the residual contract. Under such a system, funds would be allocated on the basis of state performance, and states would be allowed to keep any residual savings. "If a state chooses not to adopt some cost reducing innovation it forgoes revenue. By the same token, any state that chooses to overlook some quality enhancing opportunity will receive a lower allocation of administrative funds than it would have received had it pursued the opportunity" (Davidson and Martin 1994, 24-25). It is likely that a pay-for-performance method would also encourage states to align their goals and efforts with federal performance priorities, which, in turn, reflect national interests in the UI program.

Outcome Measures

Any administrative funding system that promotes efficiency requires a viable outcome-measurement system that the federal government can use to ensure that efficiency incentives do not encourage states to sacrifice program quali-

ty. An appropriate outcome-measurement system could help prevent the erosion of program quality that can occur when states are faced with incentives to cut costs. The current "system" for outcome measurement is actually an extensive collection of federal programs that monitor, evaluate, or impose requirements on the states. As discussed in the next chapter, the primary purpose of this "system" is to direct and inform program improvement efforts. In most cases, there is little threat of sanctions or other consequences if states fail to meet standards or if performance inadequacies are uncovered.

According to the discussion in Chapter 3, federal efforts to measure state UI programs should be limited to those areas that affect the fundamental goals of the UI system and in which there is a potential divergence of national and state interests. There is no need for federal monitoring of state performance in areas where national and state interests coincide. Further, the capacity of states to focus their administrative efforts on areas identified as being the most crucial to the national interest would increase if the federal performance-review system limited itself to only the most important program outcomes.

Thus, the federal government should measure essential program outcomes in areas in which national and state interests may diverge. This framework would support federal monitoring of eligibility guidelines and other program areas where states may respond to interstate economic pressures to enhance their business climates by adjusting policy in ways that may undermine national objectives. For example, performance measures could be used to guard against the following means of state cost reduction: unreasonably high eligibility standards; inappropriately low benefit levels; the provision of limited administrative services, which may make it difficult for individuals to collect benefits; and other reductions in services. Outcome measures could also be used to monitor state levels of forward funding, and ensure that individuals have adequate access to the UI system, including the ability to enter and fully participate in the system.

CONCLUSIONS

The empirical research presented in this chapter suggests that a strategy of increasing the taxable wage base could be quite effective in increasing state trust fund solvency. Further, increasing the taxable wage base could have the added effect of reducing the inequities that result from the current low taxable wage base.

Because of the inclusion of the UI trust fund in the unified federal budget, however, any increases in the federal taxable wage base would have the

effect of generating additional FUTA revenues without guaranteeing that additional funds would be made available to the states for administration. Removing the trust fund from the unified budget is one solution to this problem, although it is unlikely to be a viable option in the current political and economic environment. Alternatively, the problem could be remedied more easily by simultaneously enacting a decrease in the FUTA tax rate and an increase in the wage base, offsetting the federal tax revenue effects of the wage base increase.

NOTES

1. For additional information, see Chapter 3 in this report and Chapters 3 and 4 in Advisory Council on Unemployment Compensation (1995).

2. FUTA revenues are also used for the following purposes: the Employment Service (ES), the collection of labor market information by the Bureau of Labor Statistics (BLS), and the collection of FUTA taxes by the U.S. Treasury.

3. Experience-rated taxes are based on an employer's use of the benefits in the UI system. In principle, an employer that has many former workers collecting UI benefits will be assessed at a higher tax rate than the rate for an employer with few former employees collecting benefits. In practice, however, experience rating is far from perfect. For additional information, see Chapter 7 in this report and Chapter 6 in ACUC (1995).

4. The reserve ratio represents net trust fund reserves as a percentage of total covered wages.

5. This measure of recipiency is calculated as follows: (number of first payments of benefits times average actual duration) divided by total annual unemployment.

6. The IU/TU is the ratio of the number of UI claimants (the insured unemployed) to the number of unemployed job seekers (total unemployment). The distinction between the IU/TU ratio and recipiency is that the IU/TU ratio measures the percentage of the unemployed who have filed for UI benefits—it does not consider whether or not benefits were received. Recipiency only includes claimants who actually receive benefits. For additional information, see Chapter 4 of this report, and Chapter 4 of Advisory Council on Unemployment Compensation (1994).

7. The other variables included in the model were these: disqualification penalties for voluntary quits, refusal of suitable work, and misconduct; base period wage requirements to receive minimum benefits; the percentage of initial claims that were denied; the total unemployment rate; the average weekly wage; the ratio of covered employment to total employment in the state; the percentage of state workers who were union members; and the relative power of the Democratic and Republican political parties in the state government. The means of these variables are also included in Table 5-2. All dollar value variables are expressed in 1993 dollars.

8. A fixed effects model was used in order to accommodate the panel data (for example, multiple observations for each state over a given number of years). Unlike ordinary least

squares (OLS) regression, the fixed effects model does not assume that all observations are independent of one another, and therefore, it provides more reliable estimates of regression coefficients, standard errors, and the model's explanatory power.

Due the nonavailability of data for a number of variables in various years, the analysis was confined to the years 1978 to 1990.

9. Results did not indicate the existence of a significant relationship between the taxable wage base and the maximum weekly benefit amount.

10. Originally, this was done to match the tax base used for old-age insurance contributions, in order to simplify federal employer tax collections and payment procedures for both programs (Blaustein 1993).

11. Tax rate adjustments included a 0.2 percent tax increase enacted in 1977 to generate revenues to repay a loan from the Federal Treasury to the Extended Benefits account, which had been depleted. The increase was intended to be temporary—once the loan was repaid, the increase was to terminate. In May 1987, the advances had been repaid and the 0.2 percent surcharge was due to expire at the end of the year. The Budget Reconciliation Act of 1987, however, extended this tax component through 1990 to offset some of the federal budget deficit. The surtax was extended again in 1990 to help finance the Emergency Unemployment Compensation program that was passed that year. A 1993 act extended the surtax through 1998 for budget reconciliation purposes.

12. Until 1985, periodic studies were conducted to estimate the MPU for each of 17 specific tasks within each state. Since then, no studies have been performed.

13. While there is no *direct* link between trust fund balances and administrative funding levels, administrative funding may be threatened by competing budget priorities when account balances are low.

14. Inadequate levels of administrative funding may cause states to divert funds designated for the payment of benefits from their state trust funds to pay for administrative expenses, further eroding the financial integrity of the system.

15. State administrative grants include funding for UI, the Employment Service, some activities of the Bureau of Labor Statistics, and some services for veterans. State UI grants are a subset that only include UI funding.

16. Vroman's model tested the ability of cross-state variation in administrative costs to explain the changes in several measures of quality in processing UI claims. The measures of quality were promptness of first payments, promptness of higher- and lower-authority appeals, and benefit quality control payment error rates. Cost measures were based on state salaries and workload mix.

17. Fu Associates (1994) calculated a national unit cost using data from 15 high-quality states for benefits and 20 high-quality states for taxes. Cook and Kirchner (1995) developed a measure of relative administrative efficiency and examined the relationship between efficiency level and a state's ability to meet specified standards for the timely delivery of UI services. Using these results, they calculated alternative allocations of funds that would enable all states to meet the performance standards if they adopted the behavior patterns of states which demonstrated high-quality administrative performance. The results suggest that total allocations could be reduced if all states were funded as adequately as the states that actually did meet the standards.

6 / Performance Measurement

QUALITY ASSURANCE PROCEDURES have been in place since the inception of the Unemployment Insurance program. The current system of state UI performance measurement is an extensive collection of federal programs that monitor, evaluate, and/or impose requirements on the states. The federal Quality Appraisal (QA)[1] and Quality Control (QC)[2] programs collect data and review work samples from the state UI programs to assess state performance against dozens of measures for various components of program quality. States are also evaluated to ensure that their laws conform to federal law and that their policies and practices comply with federal law. Conformity and compliance are necessary for them to receive certification to receive the administrative grants and the FUTA tax credit from the federal government, as discussed in Chapter 5. In addition to the QA and QC programs, other federal programs verify reported workload data, investigate incorrect benefit payments and fraud, and measure cash management. This chapter describes these various programs.

QUALITY APPRAISAL

The Quality Appraisal (QA) program,[3] begun in 1978, assesses the quality of state UI program activities. Assessments are based on either promptness or performance. There are two categories of measures: (1) *Secretary's Standards* (SS), established by regulation before the inception of the QA program, measure the compliance of state programs with federal law in their timeliness in processing lower-authority appeals and in delivering intrastate and interstate first benefit payments. (2) Additional *Desired Levels of Achievement* (DLA), established in 1978 and revised periodically, supple-

ment the SS with performance measures in other program areas,[4] although in practice there is little difference between the SS and DLAs.

Overall, the activities evaluated under the Quality Appraisal program are initial claims, nonmonetary determinations, combined wage claims, appeals, status determinations, field audits, collections, and employer accounts (see Table 6-1). Samples of documents and/or transactions from each of these areas are measured against the established standards. QA results for each state are published annually by the Unemployment Insurance Service. State staff review the results and make the quality determinations for two consecutive years, with federal review of the results. During the third year, federal regional office staff make the quality determinations. If, in any year, deficiencies are detected, states must develop a "Corrective Action Plan" to address them. This plan must be filed with the federal regional UI office, which has the authority to approve or reject it.[5]

The QA program uses data compiled from in-depth reviews of work performed in specified program areas and from various UI Required Reports (UIRRs). The UIRRs represent a substantial body of reports that states submit to the federal government for use in calculating economic indicators, budgeting purposes, charting the status of programs, and measuring performance. A 1993 internal review by the Unemployment Insurance Service catalogued 38 such reports, one of which has since been eliminated.[6]

QUALITY CONTROL PROGRAMS

The Benefit Quality Control (BQC) program,[7] which was begun in 1988, is used to measure some aspects of the accuracy of benefit payments and to assist states in developing program improvement plans to correct problems. It reviews and analyzes a randomly selected sample of Unemployment Insurance payments to estimate eligibility and benefit payment error rates, and it collects data on the cause of errors and the party responsible for error.[8] The results for each state are published annually by the Unemployment Insurance Service. In 1993, an estimated $1.9 billion (8.8 percent) of the total $21.1 billion in UI payments were overpayments, and an estimated $182 million (0.9 percent) were underpayments (U.S. Department of Labor 1994b).

Payments for interstate claims and for Emergency Unemployment Compensation are not evaluated under the BQC program. In addition, neither denied claims nor appeals decisions are included in the BQC sample. As a result, the BQC program underestimates the rate of underpayment, because erroneously denied claims are never examined.

States have the primary responsibility for implementing and administering BQC, based on methodology established by the federal Unemployment Insurance Service. No sanctions or funding incentives are available for the federal government to use for encouraging any specific level of achievement in state programs. The 1993 National Performance Review conducted by the Office of the Vice President recommended that the UI Service reduce BQC's emphasis on error measurement and focus instead on constructive use of the results in order to improve quality (Gore 1993).

The Revenue Quality Control (RQC) project is intended to provide objective information on the quality of state revenue operations.[9] This information could be used both by state UI agencies in improving operations and by the U.S. Department of Labor in line with its oversight responsibilities. RQC program development began in the late 1980s, with input from state UI representatives. Pre-testing and pilot programs took place in 1990 and 1991, respectively. It was expected that the computed-measures component of the RQC program could be used in 1995 and that the complete program would be implemented in 1996. The program will review the timeliness, accuracy, and completeness of the following tax functions: status determinations, cashiering, report delinquency, collections, field audit, and account maintenance.

When it is in operation, RQC will use three methodologies to measure quality. First, computed measures based on data reported by the states, including the tax measures used in DLA, will provide information on the timeliness and completeness with which UI tax transactions occur. Second, program reviews will examine tax systems for internal controls and will check a small sample of transactions to verify the effectiveness of the internal controls in producing accurate results. Third, surveys will gather information on best state practices, and these will be compiled in a report and distributed by the U.S. Department of Labor.

Overall, the federal QC programs maintain their own data collection and state reviewing operations, independent of the QA and UIRR processes. They are also budgeted separately from the regular state administrative funding system.[10] Funding for QC was approximately $35.2 million for FY 1993. This represents approximately 1.4 percent of the $2.4 billion in state UI grants that year.[11] The BQC program was allocated 533 full-time equivalent (FTE) staff positions for FY 1994, representing just over 1 percent of the total number of FTEs in the Unemployment Insurance program. The RQC program currently receives 1 FTE staff position per state.[12]

TABLE 6-1. State UI Activities Measured by Secretary's Standards (SS) and Desired Levels of Achievement (DLA)

State Activity Being Measured	Category (SS, DLA)	Performance Measure
Initial Claims Promptness—Intrastate	SS	In Waiting-Week States: A minimum of 87 percent of first payments made within 14 days of first compensable-week ending date. In Nonwaiting-Week States: A minimum of 87 percent of first payments made within 21 days of first compensable-week ending date. A minimum of 93 percent of first payments made within 35 days of first compensable-week ending date.
Initial Claims Promptness—Interstate	SS	In Waiting-Week States: A minimum of 70 percent of first payments made within 14 days of first compensable-week ending date. In Nonwaiting-Week States: A minimum of 70 percent of first payments made within 21 days of first compensable-week ending date. A minimum of 78 percent of first payments made within 35 days of first compensable-week ending date.
Initial Claims Promptness—UCFE	DLA	In Waiting-Week States: A minimum of 70 percent of first payments made within 14 days of first compensable-week ending date. In Nonwaiting-Week States: A minimum of 70 percent of first payments made within 21 days of first compensable-week ending date. A minimum of 78 percent of first payments made within 35 days of first compensable-week ending date.
Initial Claims Promptness—UCX	DLA	In Waiting-Week States: A minimum of 87 percent of first payments made within 14 days of first compensable-week ending date. In Nonwaiting-Week States: A minimum of 87 percent of first payments made within 21 days of first compensable-week ending date. A minimum of 93 percent of first payments made within 35 days of first compensable week ending date.
Nonmonetary Determinations Performance—Intrastate	DLA	For Separation Cases: A minimum of 75 percent of cases having acceptable scores. For Non-separation Cases: A minimum of 80 percent of cases having acceptable scores.
Nonmonetary Determinations Promptness—Intrastate	DLA	A minimum of 80 percent of determinations made in a timely manner.

Combined Wage Claims	DLA	A minimum of 75 percent of wage transfers made in a timely manner.
Appeals Performance	DLA	A minimum of 80 percent of cases scoring 80 percent of points or more.
Appeals Promptness—Lower Authority	SS	A minimum of 60 percent of appeals decisions made within 30 days. A minimum of 80 percent of appeals decisions make within 45 days.
Appeals Promptness—Higher Authority	DLA	A minimum of 40 percent of appeals decisions made within 45 days. A minimum of 80 percent of appeals decisions made within 75 days.
Status Determination Promptness	DLA	A minimum of 80 percent of determinations of employer liability made within 180 days of liability date.
Field Audits	DLA	A minimum penetration rate for contributory employer audits of 4 percent. A minimum penetration rate for large employer audits of 1 percent of the number of audits required for total audit penetration rate.
Report Delinquency	DLA	A minimum of 95 percent of employers filing reports by end of quarter.
Collections	DLA	A minimum of 75 percent of delinquent accounts with some monies obtained within 150 days from end of quarter.
Cash Management	DLA	A minimum of 90 percent of collected taxes deposited in Clearing Account within 3 workdays of receipt. A maximum of 2 business days for transferring funds on deposit in Clearing Account to Trust Fund. Withdrawal from state account in Unemployment Trust Fund an amount sufficient to maintain in benefit payment account a balance equivalent to not more than 1 day's benefit payment requirement from the account.
Benefit Payment Control	DLA	A minimum recovery of 55 percent of regular state UI fraudulent overpayments. A minimum recovery of 55 percent of regular state UI nonfraudulent overpayments.

SOURCE: Cook, Brinsko, and Tan (1993).

WORKLOAD VALIDATION PROGRAM

The Workload Validation Program was initiated in the late 1970s to standardize the workload definitions used by states for budget items. This standardization was needed primarily for use in the budget allocation process. Workload items are validated for quantity and quality. Quantity validation, which measures accuracy, applies to workload items in the following categories: initial intrastate claims (new and additional claims), continued weeks claimed, agent and liable (interstate) initial claims, nonmonetary determinations, lower- and higher-authority appeals, active employers, and wage items. Quality validation is required for all of these categories except for that of agent and liable (interstate) initial claims and that of wage items.

States are responsible for planning, implementing, and reporting the validation program according to federal guidelines. The federal regional UI office audits and oversees the validation process and supplies technical assistance when requested by the states.

CONFORMITY AND COMPLIANCE REVIEWS

Conformity and compliance reviews are intended to ensure that state laws and procedures conform to and comply with all federal UI requirements in the Social Security Act and the Federal Unemployment Tax Act (U.S. Department of Labor 1993a). (Conformity refers to agreement of state law with federal law and with the Secretary of Labor's interpretations of the law. Compliance refers to the consistency of state policy and practice with federal law.) For disbursements from the federal UI trust fund and for administrative grants to be released to a state, the Secretary of Labor must certify to the Secretary of the Treasury that the state is in conformity and compliance.[13]

Most conformity or compliance issues are resolved informally. To resolve a conformity issue, a state must indicate that it will change its law or its interpretation of the law. To resolve a compliance issue, it must correct its practices.

If informal attempts to resolve such issues fail, the state is notified in writing by the U.S. Department of Labor of a final opportunity to take corrective action before a hearing process is initiated. If the proceedings determine that the state is out of conformity or compliance, it can lose certification and, as a result, the FUTA tax credit and part or all of its administrative grant. Substantial nonconformity or noncompliance is required before certification is withheld. (In fact, certification for the FUTA tax credit has never been withheld.) Certification decisions may be appealed through the U.S. Court of Appeals to the Supreme Court.[14]

PERFORMANCE MEASUREMENT REVIEW

The Performance Measurement Review (PMR) project was initiated in 1988 to "examine, evaluate and improve the mechanisms for performance measurement in the UI Service oversight of state UI programs" (Macro International, Westat, and The Urban Institute 1991). The project aims to coordinate and improve the various UI oversight systems.

In its first phase, PMR proposed new timeliness and quality measures that would be field-tested, including timeliness measures for aspects of the program that were not previously measured.[15] Timeliness is an important component of state compliance with the provision in the Social Security Act that requires the use of "such methods of administration as are found by the Secretary of Labor to be reasonably calculated to insure full payment of unemployment compensation when due."[16]

The PMR project also proposes to improve other quality measurements by including all forms of adjudication (including benefit payment denials), rather than only examining selected categories.[17] When fully implemented, the PMR measurements will replace the benefit standards currently in the QA program, and the revenue components of QA will be absorbed by the new Revenue Quality Control program.

CONCLUSION

Currently, the primary purpose of the various performance measurement programs in the UI system is to direct and inform state program improvement efforts. In most cases, there is little threat of sanctions or other consequences if states fail to meet standards or if other inadequacies are uncovered by performance measurement programs. Indeed, even the sanctions for conformity and compliance requirements, which are statutorily determined, are rarely imposed. These sanctions, which include the loss of administrative funds or loss of the FUTA tax credit, are so severe that every effort is made to correct deficiencies or to negotiate compromises before they are enforced. In theory, however, various forms of performance measures and standards could be used to help ensure that national objectives in the UI system are preserved.

NOTES

1. The Performance Measurement Review, a project initiated by the U.S. Department of Labor in 1988, is revising the QA performance measures and benchmarks. Also see Fu Associates (1994) and Cook and Kirchner (1995) for additional information.

2. Quality Control includes two separate programs—Benefit Quality Control and Revenue Quality Control.

3. See U.S. Department of Labor (1994a) for additional information and results.

4. Cook, Brinsko, and Tan (1993).

5. After approval from the federal regional UI office, state agencies generally submit Corrective Action Plans as part of their Program and Budget Plan (which represents their application for administrative funds). The Program and Budget Plan is then submitted to the national Unemployment Insurance Service office, which reviews the package and notifies the regional office of any concerns.

6. The UIRRs include two weekly reports, nine monthly reports, eight quarterly reports, and three annual reports, as well as additional reports that are submitted when specific programs (such as Extended Benefits) are activated in a state.

7. See U.S. Department of Labor (1994b) for additional information and reports on state performances. The BQC program grew out of a test study conducted by the National Commission on Unemployment Compensation that revealed that the actual error rate for UI payments was higher than reported.

8. Each state received resources to investigate an average of 785 cases in 1993. Individual state sample sizes varied, with the smallest states receiving resources to investigate 475 cases, and the largest, 1,754 cases. Some actual state sample sizes varied slightly from resource allocation targets, but it is required that the sample size fall within minimum and maximum limits specified by the federal government.

9. See U.S. Department of Labor (1993b) for additional information.

10. Funds for UIRR and QA are included in the regular UI base and contingency administrative budget, whereas QC has a separate budget line item.

11. Federal UI Service staff indicate that FY 1993 funding for QC included $34.4 million from the state administrative budget, and $0.8 million from the national activities budget. In FY 1994, the totals were $36.5 million and $1.1 million, respectively.

12. Federal UI Service staff indicate that there are currently 19.5 FTEs in Quality Control who are assigned to the national office (4 of them are assigned to RQC). The workers in these FTEs do not, however, work exclusively on QC; conversely, there may be other staff members who work on QC but are not assigned to that program.

13. Certification requirements exist in three areas: Section 3304 of FUTA (for the 5.4 percent FUTA tax credit), Section 3303 of FUTA (which requires experience rating), and Section 303 of Social Security Act (which provides state administrative grants).

14. Procedures for withholding payment and certifications are codified at 20 CFR 601.

15. The timeliness measures selected for field testing included the timeliness of the following: first payments (initial claims), continued-weeks payments, adjudications, adjudication implementation, adjudication redetermination, lower-authority appeals, lower-authority decision implementation, higher-authority appeals, combined wage claims and wage transfers, combined wage claims and billing, and combined wage claims and reimbursements.

16. The "when due" provision is contained in Section 303(a)(1) of the Social Security Act of 1935.

17. The quality measures selected for field testing included the quality of the following: adjudication, lower-authority appeals, combined wage claims and wage transfers, combined wage claims and billing, and combined wage claims and reimbursement.

7 / Experience Rating

IN MOST STATES, benefits under the Unemployment Insurance system are financed through employer payroll taxes that are assessed by the states.[1] States are currently required by FUTA to finance program benefits through an "experience-rated" tax structure—that is, the rate of taxation under a given tax schedule[2] varies with an individual employer's experience with unemployment. In other words, employers who create the most cost for the system are assessed the highest tax rates.[3]

CAPACITY TO INFLUENCE THE BEHAVIOR OF FIRMS

It is often argued that experience-rated UI taxes allow state governments and the federal government to influence employers' behavior in socially beneficial ways. For example, experience-rated taxes can influence firms to reduce layoffs and to participate actively in the process by which the eligibility of claimants is determined.

Economists, however, often assert that the entity (in this instance, employers) on which a tax is legislatively imposed may be different from the entity that actually pays the tax. Thus, it is possible that some or all of the ultimate burden of UI taxes could be shifted from employers to workers in the form of lower wages or benefits, or to consumers in the form of higher prices.

Recent research by Anderson and Meyer (1994) focuses specifically on this question with regard to experience-rated UI taxes. Their estimates indicate that a firm is able to shift a *flat* tax (for example, the minimum tax rate within that firm's industry) to its employees, but that it is much less able to shift the portion of its taxes that are experience-rated. Thus, according to this study, a significant percentage of experience-rated taxes actually are paid by

the individual firm. Overall, the research by Anderson and Meyer (1994) supports the belief that experience-rated taxes do, in fact, influence firms' decisions and behavior.

Thus, an experience-rated UI tax (rather than a flat tax) is likely to support several UI program goals. First, experience rating provides a financial incentive (in the form of reduced tax burden) for individual employers to stabilize their employment and avoid layoffs. Second, it charges the costs of UI to those employers who are responsible for unemployment. Third, it provides an incentive for employers to police the UI program by protesting ineligible claims for benefits.

Assigning costs through experience rating, however, may also have negative consequences. First, firms may choose to limit future exposure to UI costs by increasing the hours of current workers rather than by hiring new workers when the firm's workload increases. Such decisions would have the effect of increasing the level of unemployment in the country. Second, if too large a percentage of UI costs is charged back to firms, employers would bear costs for which they should not be held exclusively responsible (for example, in the case of unemployment not caused by the employer, but in which workers are still found to be eligible for UI). Third, experience rating may result in inappropriate employer involvement in the eligibility determinations and appeals processes if some employers contest legitimate UI claims in an effort to minimize their UI tax burden. Additionally, the timing of the experience rating financing structure can result in an increase in employers' tax rates at a time when employers are already facing financial hardship.

Each of these positive and negative implications is discussed below, following a general discussion of the level of experience rating—that is, of how much employers actually pay toward UI benefits for former employees. The potential outcomes of experience rating would be expected to vary depending largely on the actual level of experience rating.

LEVEL OF EXPERIENCE RATING

Under a "perfectly" experience-rated system, employers would pay dollar-for-dollar the actual UI benefits generated by all previous employees (regardless of the employee's particular reason for separation). In practice, experience rating is far from perfect, with some employers incurring little or no additional cost for an additional layoff.

Imperfect experience rating occurs for numerous reasons, including the following: low maximum tax rates, minimum tax rates set at zero, partial forgiveness of charges for employers with negative-balance reserve accounts, disqualifications for separation issues, dependents' benefits, net overpayments, financing of Extended Benefits, assignment of tax rates to new employers, firms going out of business, special industry rates, caps on changes in annual employer tax rates, solvency surtaxes, and low state taxable wage bases (U.S. Department of Labor, Office of the Inspector General 1985).

Perfect experience rating is not considered the optimal level, because noncharges are generally deemed to be reasonable in circumstances that are beyond an employer's control or when unemployed workers are engaged in activities that are considered socially desirable—such as training. Additionally, some charges are ineffective because an employer is inactive and has a negative account balance, or because states have made decisions to cap or write off large negative balances. Although it is generally recognized that "perfect" experience rating is *not* the appropriate goal, there is no agreement about the specific level of experience rating that *would* be appropriate.

Indeed, it is difficult even to measure the degree of experience rating that currently exists. Although it has a number of limitations, the Experience Rating Index (ERI) calculated by the U.S. Department of Labor's Unemployment Insurance Service is the only overall measure of experience rating.[4] The ERI is defined as the benefits paid in a one-year period (less the amount of noncharges, ineffective charges, and inactive employer charges) divided by total benefits. This ratio measures the percentage of benefits charged to individual employers. The ERI provides a limited picture for a number of reasons. For example, it does not account for changes in trust fund balances, and it incorporates only the current year's data.

Table 7-1 provides the state and U.S. average ERIs from 1988 through 1994 (the only years for which the ERI is available). The ERI can be used to make within-state and national comparisons over time, but it is considered misleading to make strict comparisons across states because of differences in state laws and in the timing of charges made to employers. Between 1990 and 1994 the ERI declined in 35 states and increased in 18 states, and between 1990 and 1992 the U.S. average dropped from 66 to 56. This change, however, was probably most attributable to the recession of the early 1990s, during which more employers were at the state maximum tax rate; this would have caused an increase in ineffective charges.

TABLE 7-1. Experience Rating Index, by State, 1988-1994

State	1988	1989	1990	1991	1992	1993	1994
Alabama	71	78	74	56	49	64	52
Arizona	80	80	83	78	69	76	81
Arkansas	48	47	56	60	58	53	N.A.
California	65	67	68	64	52	53	53
Colorado	45	53	60	65	64	62	68
Connecticut	62	64	58	47	42	49	59
Delaware	N.A.	51	71	70	N.A.	82	83
District of Columbia	47	56	72	72	62	N.A.	64
Florida	68	66	50	56	53	67	75
Georgia	61	65	62	65	52	58	75
Hawaii	47	56	66	63	32	36	33
Idaho	55	64	58	53	44	54	50
Illinois	83	86	85	80	79	76	71
Indiana	81	91	94	84	78	75	75
Iowa	78	77	67	70	74	67	66
Kansas	64	73	69	69	57	58	59
Kentucky	79	79	75	72	58	66	72
Louisiana	42	87	85	88	83	77	75
Maine	62	60	60	52	41	50	60
Maryland	N.A.	72	62	62	65	N.A.	N.A.
Massachusetts	55	54	50	40	43	47	58
Michigan	80	67	72	70	63	73	77
Minnesota	67	66	69	62	58	64	69
Mississippi	40	54	53	42	51	53	50
Missouri	61	58	59	61	55	63	70
Montana	54	58	62	61	55	73	63
Nebraska	61	57	63	60	57	56	55
Nevada	66	67	68	63	41	59	72
New Hampshire	N.A.	N.A.	81	72	55	68	77
New Jersey	N.A.	78	75	70	63	51	38
New Mexico	61	59	63	63	62	62	67
New York	80	73	61	55	51	60	84
North Carolina	N.A.	N.A.	N.A.	50	44	42	31
North Dakota	62	65	57	64	60	56	64
Ohio	70	74	74	70	65	65	73
Oklahoma	50	64	60	48	31	37	66

(continued)

TABLE 7-1. (continued)

State	1988	1989	1990	1991	1992	1993	1994
Oregon	59	63	56	60	51	50	48
Pennsylvania	66	69	65	62	56	57	64
Rhode Island	75	69	68	58	55	64	75
South Carolina	58	62	65	61	54	52	58
South Dakota	59	38	48	45	49	44	47
Tennessee	N.A.	69	66	68	71	73	73
Texas	53	58	55	52	51	49	N.A.
Utah	61	70	70	69	66	61	66
Vermont	70	66	63	58	54	48	51
Virgin Islands	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
Virginia	65	68	70	61	51	66	77
Washington	60	63	63	61	57	48	39
West Virginia	83	51	56	58	56	62	59
Wisconsin	90	82	78	66	65	70	70
Wyoming	38	62	N.A.	55	63	60	N.A.
U.S. Average	63	66	66	62	56	N.A.	N.A.

NOTE: "N.A." indicates data are not available. The ERI is not applicable for Alaska and Puerto Rico. Alaska uses the payroll decline method; Puerto Rico had a flat tax until 1993.

SOURCE: U.S. Department of Labor, Unemployment Insurance Service.

PRIMARY EFFECTS

This section discusses the four primary effects of experience rating—stabilization of employment, allocation of costs, employer participation, and timing of tax adjustments. The following subsections discuss the theory that underlies each effect, the extent to which desired goals have been achieved, and the extent to which related negative effects may also occur.

Stabilization of Employment

In theory, financing UI through an experience-rated system of employer taxes should discourage layoffs and, as a result, stabilize employment by reducing the number of individuals who lose their jobs. There are, however, limits on the extent to which experience rating can affect employers' layoff

decisions. First, any increased UI cost associated with a layoff is often more than offset by the labor cost savings (in wages and benefits) from the layoff. Second, layoff decisions are frequently based on major external economic conditions beyond the control of employers (for example, business cycles, demand changes, technology changes). Third, UI taxes represent only a small percentage of total employee costs.[5] Finally, to the extent that experience rating is imperfect, the full effects of stabilization will not occur.

Major research findings indicate that the current system of imperfect experience rating does stabilize employment and that perfect experience rating would reduce labor turnover even more (see Table 7-2). Most research has used analytic techniques to estimate the amount of unemployment that could be avoided through higher levels of experience rating. The research indicates that approximately 30 to 50 percent of the unemployment that is attributable to temporary layoffs (rather than to permanent job loss or to leaving jobs) could be avoided with perfect experience rating. This would result in a decrease in the overall unemployment rate of between 0.8 and 1.5 percentage points during the time of the studies.[6] Some researchers suggest that these estimates are likely to be overstated because of a number of limitations in the available data.[7]

These gains may be offset, however, if fear of future costs due to experience rating discourages employers from hiring new workers, and they rely instead on existing employees to work longer hours. Further, some employers—especially small ones—that need to lay off workers may find that their tax rates increase so dramatically as a result of those layoffs that additional layoffs then become necessary. No research has been done on these possible negative effects of experience rating.

Allocation of Costs

Financing UI through an employer experience-rated tax system allows the costs of unemployment to be attributed to the employer who created those costs. The extent to which this objective is achieved depends on the state's taxing structure. For example, when states have low maximum UI tax rates, many individual employers may be at the maximum tax rate and would face no additional costs associated with a layoff. In addition, states often shift to higher tax schedules when their UI trust fund balances decline. For employers that already have relatively high maximum tax rates, these shifts frequently result in little additional burden if a firm is a negative-balance employer (that is, an employer whose workers consistently receive more in

benefits than the employer pays in taxes). Instead, a disproportionate share of the burden resulting from the shift in tax schedules is passed on to positive-balance employers (those employers who pay more in taxes than their workers receive in benefits).

As discussed above, there are valid reasons for a state to decide that some UI benefits should be socialized (that is, subsidized by all employers in the UI system rather than being paid for by a specific employer). For example, most insurance mechanisms offer protection against large losses. Similarly, under UI, most states offer protection to firms when they incur large UI costs; this takes the form of writing off portions of balances for firms with large negative reserves and placing a cap on the annual increase in the tax rate that a firm pays. In addition, in those instances in which the unemployment occurred through no fault of the employer (for example, when individuals quit their jobs and receive benefits after a temporary disqualification), employers should not be financially responsible for the associated UI expense. States do socialize costs in many of these cases.

While the level of the ERI in a state indicates the general extent to which costs are attributed directly to the employer creating the cost, it masks any inequitable relationships across firms or markets. Research indicates that some firms are receiving a subsidy from imperfect experience rating, while others are paying the cost. Table 7-3 presents four research efforts that addressed this issue. The extent to which such subsidization occurs across firms and industries reflects the extent to which costs are misallocated to firms.

The research indicates that there is significant interindustry subsidization of UI benefit costs, as more stable industries, such as finance, insurance, and retail, provide large subsidies to less stable industries, such as construction. A study conducted by the U.S. Department of Labor's Office of the Inspector General (1985) found that, in 1983, negative-balance employers contributed only $1.00 for every $3.10 in benefits that were paid. The study also found that when a higher tax schedule was in effect (usually in periods of a state's experiencing lower UI solvency), a disproportionate burden of the increased cost was passed on to positive-balance employers. Some researchers (Becker 1972b, and Anderson and Meyer 1993) have found that, in addition to these industry differences, some researchers have found that small employers are somewhat more likely to have a negative balance than are large employers. This may be because any change in employment represents a much larger percentage change in a small employers' labor force.

While appropriate allocation of costs is a goal of experience rating, imperfect experience rating may result in less-than-optimal cost allocation,

TABLE 7-2. Research Results on Experience Rating: Its Effect on Employment Stabilization

Researcher(s)	Data	Research Results Using Quantitative Data Analysis
Feldstein (1978)	Current Population Survey data of almost 25,000 observations, 1971. Data included demographic and employment characteristics, but not variables on UI tax system, UI benefits, or industry information.	Layoff unemployment rate of 1.6 percent would have been reduced by roughly half if employers were fully experience rated.* This result is not based on any information regarding UI taxation, but instead on the author's hypothesis.
Halpin (1980)	Survey of Income and Education data of more than 40,000 individuals in 30 reserve ratio states, 1976. Data included UI tax rate variables, earnings, and demographic characteristics.	An increase in experience rating brought about by a 1 percentage point increase in the effectiveness of the maximum tax rate (i.e., the tax rate that a negative-balance firm would receive if benefits and taxes were equal) is estimated to result in a decrease of 0.14 percentage point in layoff unemployment (a 10 percent drop in the rate for the 1976 sample).
Marks (1980)	Employer-level data of over 20,000 New Jersey manufacturing employers, 1975-1977. Data included UI tax information, number of employees, industry, and turnover.	Over half of employers were assigned to the minimum or maximum tax rate which did not change with marginal changes in benefit levels. Employers at the maximum tax rate have layoff rates that are 2 to 3 times higher than the layoff rates of those in the middle of the tax schedule.
Saffer (1980)	UI-related data for all 52 states, 1967-1975. Data included UI benefit variables, experience-rating variables, and covered employment.	An increase in the maximum tax rate or a decrease in the minimum tax rate was found to increase the degree of experience rating and to reduce unemployment.

Brechling and Jehn (1978)	UI-related data for reserve ratio states, 1962-1969. Data included information on UI taxes and coverage (but not UI benefits) for the manufacturing industry.	An increase in experience rating by doubling the relevant tax rate applied to firms with a negative reserve ratio would result in a 50 percent lower layoff unemployment rate. An increase in experience rating by increasing the maximum tax rate by 10 percent (e.g., from 3.40 to 3.74 percent) would reduce layoff unemployment as much as 7 percent from its existing level.
Topel (1986, 1990)	Current Population Survey data of more than 76,000 males, 1977-1981. Data included demographic and em-ployment information, and state-specific UI information.	Imperfect experience rating fails to prevent about 30 percent of all unemployment spells, the majority of which are from temporary layoffs. The unemployment rate would have been 1.5 percentage points lower than its level of 5.2 percent if experience rating were perfect.
Card and Levine (1992)	Current Population Survey data of more than 185,000 individuals in 35 states, 1979-1987. Data included demographic information, and focused on 5 major industry categories.	A perfectly experience-rated system would reduce the temporary layoff unemployment rate by 1 percentage point (50%) during the trough of a recession.*

NOTE: An asterisk (*) indicates the model had low explanatory power.

TABLE 7-3. Research Results on Experience Rating: Its Effect on Allocation of Costs to Employers

Researcher(s)	Data	Results
Becker (1972)	Benefit-cost rates for 11 states by industry, 1957-1967.	*Industry:* Due to imperfect experience rating, a number of industries have benefit payments larger than tax collections. For example, agriculture, mining, and construction have large ratios in most states, and transportation, trade, finance, insurance, real estate, and services have small ratios in most states. In addition, there is a much larger percentage of negative-balance firms in industries such as construction, mining, and agriculture than in industries such as manufacturing, transportation, trade, finance and insurance and real estate, and services. *Firm Size:* Looking at only 4 of the 11 states, small firms are more likely to have negative balances than large firms are; however, there is not a large difference between the tax rates of small firms and large firms.
Munts and Asher (1980)	Data submitted for 21 states by industry on contributions, benefits, taxable and total wages, and em-ployees, 1968-1978.	Due to imperfect experience rating, there are subsidies across industries: construction, manufacturing, and agriculture receive large positive subsidies; service and mining receive smaller subsidies; and trade and finance, insurance, and real estate receive negative subsidies (i.e., contribute more than paid out in benefits).
U.S. DOL, Office of Inspector General (1985)	Data from 12 audited states, 1983.	Employers with low unemployment subsidized employers with high unemployment by $1.6 billion in the 12 states in 1983. Stable industries (e.g., financing, retailing, services) subsidize more unstable industries (construction, manufacturing). Negative-balance employers were charged $3.10 in benefits for each $1 contributed.
Anderson and Meyer (1993)	Data for 6 reserve ratio states from the Continuous Wage and Benefit History (CWBH) project, 1978-1984. Data included a sample of records for covered workers (100,000-200,000 per state) and their UI benefit status, as well as firm's industry, employment level, UI tax rate, and payroll.	*Industry:* Due to imperfect experience rating, there are large subsidies to construction in all 6 states and subsidies to manufacturing and mining in most states. Finance, insurance, and real estate; retail and wholesale trade; services; and transportation receive negative subsidies. The results for agriculture are mixed. *Firm Size:* There is some weak evidence which suggests that large firms have larger subsidies.

because of cross-industry subsidization and socialization. Many researchers believe that experience rating should be increased, primarily through the use of higher maximum tax rates and broader ranges in tax schedules, to ameliorate these problems (see, for example, U.S. Department of Labor, Office of the Inspector General 1985; Vroman 1989; and Topel 1990). This would increase the degree of experience rating and would reduce reliance on higher tax schedules and surcharges.[8]

Employer Involvement

An experience-rated tax provides employers with a clear financial incentive to increase the level of their involvement in the UI system. Such involvement could include a firm's scrutinizing former employees' UI claims, protesting claims that are ineligible, reviewing charges to the firm's account, participating in the appeals process, and participating in the legislative process. Because the system is financed by employers although the benefits generated go directly to workers, most resistance to the program is likely to arise from employers.

Employers have an incentive to contest UI claims, since their UI taxes are directly related to the extent to which their former employees receive UI benefits. In 1994, employers were responsible for 26 percent of lower-authority appeals (approximately 256,000 employer appeals) and 32 percent of higher-authority appeals (approximately 57,000 employer appeals), according to Unemployment Insurance Required Reports submitted by the states to the U.S. Department of Labor. Both levels of employer appeals have grown more rapidly than claimant appeals. Increasingly, employers are turning directly to the large number of service companies that manage UI costs in order to monitor UI costs generated by former employees more closely.

It is difficult to determine the extent to which employers appeal even those UI claims that are legitimate. The U.S. Department of Labor, Office of the Inspector General (1985) offers some evidence that employers who pay the maximum possible tax rate in each state (and therefore incur additional costs from benefit claims by former employers) file appeals less frequently than do other employers, whose tax rates increase when their benefit costs increase (see Table 7-4). This reflects the reduced incentive for employers at the maximum tax rate to contest UI claims, since they face no additional cost associated with each additional layoff.[9] ACUC staff calculations using appeals data in two states also indicate that employers at the maximum tax rate are less likely to file appeals than are employers at other tax rates.[10]

TABLE 7-4. Research Results on Experience Rating: Its Effect on Employers' Intervention in UI System

Researcher(s)	Data	Results
U.S. DOL, Office of Inspector General (1985)	Data from 12 audited states, 1983	In 12 audited states, up to $1.1 billion (or 17 percent of total benefits) of "savings" were generated because claimants were disqualified as a result of employers or states identifying separation issues that made them ineligible for benefits. Employers at the maximum tax rate were roughly two times less likely to file benefit appeals than were variable-rated employers.

This finding does not necessarily indicate that employers are making *excessive* use of the appeals system. Such a conclusion might be valid if there were evidence that employers' (or claimants') win rates vary systematically with an employers' level of experience rating. Data from Wisconsin and Texas (see note 10) do not, however, provide any evidence of such variation.

Alternatively, one might conclude that employers were making excessive use of the appeals system if they won a substantially lower percentage of the appeals that they filed compared to the percentage of appeals won by claimants who file. Once again, there is no evidence that this is the case.[11]

Timing of Tax Changes

The temporal relationship between prevailing economic conditions and the assessment of experience-rated UI taxes and/or tax schedules can take three forms. First, there can be a cyclical relationship: UI taxes and schedules can be highest when revenues are most needed. Second, UI taxes can be levied at a steady rate each year. Third, there can be a countercyclical relationship: UI taxes and schedules can be highest when benefit drain is the lowest.

State tax schedules are determined, in general, by state economic conditions and by the solvency of the state UI trust fund. Individual tax rates are usually calculated once a year. They take the average costs of only the previous three years into account. Consequently, experience rating typically results in a tax structure that cycles one to three years later than does the economy. Both the cyclical assessment of individual employers' UI taxes and the cyclical assignment of a state tax schedule may have the effect of requiring employers to pay higher UI taxes when they can least afford them (that

is, when the firm's financial position has required layoffs or when state economic conditions are poor). The cyclicality of experience rating may be even greater in states with low taxable wage bases, since a low level of taxable payroll can significantly constrain the amount of taxes collected during periods of prosperity. (This assumes that tax rates in these states have not been increased enough to offset the low taxable wage base.)

Most researchers believe that a countercyclical system of experience rating individual employers (that is, the system in which tax schedules are kept constant or reduced during times of recession and increased during periods of economic growth) would be preferable to a cyclical assessment of costs. However, the current level of solvency in most states' trust funds and states' frequent use of solvency surtaxes and shifting tax schedules indicate that many states are not currently in a position to move toward countercyclical funding. A state's trust fund must be healthy in order to adopt countercyclical funding strategies, because low reserve levels often necessitate triggering higher tax schedules or solvency surtaxes during economic downturns simply to remain solvent. For example, in the most recent recession, 15 states had reserve ratios below 1 percent; between 1990 and 1992, these states experienced an average change in tax rates of 51 percent, compared to a change of 21 percent in all other states. While it is the low level of forward funding (not the experience-rating system) that is primarily responsible for the poor timing of employer tax increases, experience rating may compound the timing problem.

CONCLUSIONS

A number of possible costs and benefits are associated with experience rating. Research indicates that the benefits in terms of reduced unemployment are substantial. The research also indicates that increases in experience rating, brought about through higher maximum tax rates and broader ranges in the tax rate schedules, would decrease the unemployment rate and improve the allocation of costs to the employers and industries that generate those costs. This would also decrease the current level of subsidization across industries. There is no evidence that experience rating causes increased costs to the UI system as a result of employers appealing a significant number of legitimate UI claims. However, it is likely that experience rating, in conjunction with a low taxable wage base and low levels of solvency, contributes to the cyclical funding of UI, thereby directly detracting from the system's capacity for forward funding.

NOTES

1. In addition to employers, employees also help pay payroll taxes in four states. See Advisory Council on Unemployment Compensation (1995, 51) for more information.

2. The tax schedule in effect in a given state will vary depending on (1) state trust fund solvency and (2) economic conditions.

3. See Chapter 6 of Advisory Council on Unemployment Compensation (1995) for additional background information on experience rating, as well as a detailed discussion on the types of experience rating.

4. While there were earlier estimates of the degree of experience rating in the 1970s and 1980s, the studies were based on a small number of states and calculated very different trends in the ERI (Wandner and Crosslin 1980; U.S. Department of Labor, Office of the Inspector General 1985).

5. In 1993, employer UI taxes were 0.9 percent of total wages (U.S. Department of Labor 1995d).

6. Three studies provide estimates of this decline—Feldstein (1978), Topel (1986), and Card and Levine (1992).

7. For example, the research usually (1) does not include individual employer tax rates and instead usually focuses on industrywide averages, (2) does not have information on which individuals actually receive UI and often assumes that all individuals on layoff receive UI, and (3) may assume the economy is in equilibrium even if the study period includes significant changes in the economy (Vroman 1989).

8. As noted in the report of the U.S. Department of Labor, Office of the Inspector General (1985), higher tax schedules and solvency surtaxes often decrease the level of experience rating.

9. As noted in technical comments to U.S. Department of Labor, Office of the Inspector General (1985, 131), these employers may have failed to participate in the appeals process, which led to higher benefit charges and higher tax rates than those for other firms.

10. In Wisconsin, employers were the appellants in 19 percent of all appeals that involved employers at the maximum tax rate and in 31 percent of all appeals that involved employers not at the maximum. In Texas, employers were the appellants in 45 percent of all appeals that involved employers at the maximum rate and in 55 percent of all appeals that involved employers not at the maximum.

11. According to ACUC staff calculations, nationwide, employers win 34 percent of the appeals that they file and claimants win 31 percent of the appeals that they file. See Chapter 9 in this report for additional information.

8 / Trends in Determinations, Denials, and Appeals

THE DETERMINATION OF *monetary* eligibility is a straightforward process that is based solely on the employment and earnings history of the UI applicant.[1] In contrast, the determination of *nonmonetary* eligibility is frequently a more complex process, involving three general steps. First, the state agency must define and impose a set of nonmonetary eligibility requirements. Second, in each individual case, the state identifies whether or not there are nonmonetary eligibility issues that need to be investigated. Third, in cases where nonmonetary issues are investigated, the state makes what is called a "determination" of eligibility, based on information assembled from the employer and claimant.[2]

A number of nonmonetary eligibility requirements are applied when the state is deciding whether an individual claimant will be awarded UI benefits. In general, it is required that the individual demonstrate an ability and willingness to seek and accept suitable employment (be "able and available"), and there must be no disqualifications related to the individual's most recent job separation.

States *disqualify* individuals from receiving benefits for a number of reasons, including the following: voluntary separation from work without "good cause" (a "voluntary quit"), discharge from employment due to misconduct related to the job, refusal of suitable employment without "good cause," unemployment as a result of a labor dispute, or fraudulent misrepresentation to obtain or increase UI benefits. These restrictions are designed to limit payment to those workers who are unemployed primarily as a result of economic causes (U.S. Department of Labor 1995a).[3] Because almost all eligibility requirements for receiving Unemployment Insurance are determined by the states, the definitions of nonmonetary eligibility vary significantly across states.

This chapter presents overviews of the determination, denial, and appeal processes, followed by a discussion of trends in the numbers of determinations, denials, and appeals. Chapter 9 then presents quantitative analysis of the causes of the trends in denials and appeals, and it concludes with additional discussion of the appeal system.

OVERVIEW OF THE DETERMINATION PROCESS

The extent to which nonmonetary eligibility requirements actually have an effect on claimants depends largely on the extent to which nonmonetary eligibility violations are discovered. Just as there is significant variation across states in the definitions of nonmonetary eligibility, there is also variation in the processes used to *detect* determination issues (that is, primarily, the initial decision to pursue additional information on a separation issue or on a claimant's continuing availability for work). Consequently, the process of identifying and evaluating individual cases is an important step that ultimately determines the extent to which benefits are denied on the basis of nonmonetary eligibility provisions.

Although a complete description of the methods used in each state to detect and decide separation and nonseparation issues is not available, some general information is known. The process varies depending on whether the issue involves the initial separation from employment or a claimant's ongoing eligibility for UI benefits (that is, a nonseparation issue). Each of these processes is described below.

Determination Process for Separation Issues

Determinations with respect to *separation* issues (that is, issues related to an individual's separation from employment, such as voluntary separation from work without "good cause," and misconduct) are made primarily on the basis of the claimant intake process and of information obtained from employers. The nature of intake procedures may have a direct effect on the number of determinations. Areas of possible variation in intake procedures that could have such an effect include the following: (1) *when* information on nonmonetary eligibility requirements is provided to claimants (either before or after the intake process), (2) whether the filing of additional forms is required at intake if a separation issue arises, and (3) how questions are posed to claimants (for example, whether a request is made for a claimant's submis-

sion of fact or whether a claimant's judgment call is acceptable on the matter of whether the separation action was with "good cause").[4]

With regard to the information obtained from employers, the procedures used to solicit this information may significantly affect both the level and the type of employer participation. Areas of possible variation in the processes for obtaining employer information include the following: (1) when and how information is gathered from employers (for example, whether a form is sent out automatically with every application for UI benefits or whether all responsibility for contesting a claim originates with the employer); (2) how the questions are posed to employers; and (3) what types of follow-up measures are taken to ensure a response. In addition, the decision of individual employers to protest the eligibility of UI claims dictates the extent to which they participate in the UI system's eligibility determination process.

Determination Process for Nonseparation Issues

The number of determinations with respect to *nonseparation* issues (that is, the issues related to an individual's ongoing eligibility, such as that person's ability to work, his or her availability for work, and the earning of disqualifying income) depends largely on four types of information: (1) the intake form; (2) ongoing claims forms, which include information on the claimant's job search; (3) Eligibility Review Process (ERP) interviews, which focus on detecting potential eligibility issues surrounding the claimant's job-search efforts and availability for work; and (4) the claimant's responses to referrals and job offers generated by the Employment Service.

States vary in how frequently they require ongoing claims forms to be submitted, as well as in how they interpret and review the information submitted on the forms. For example, states are more likely to detect an issue if they randomly audit some portion of employer contacts required to prove job search activity or if they review the ongoing claims forms in detail. States that lack review procedures or enforce them poorly would be less likely to detect such issues. Similarly, states vary in the frequency with which they schedule ERP interviews and office appointments and in their responses to these interviews and appointments. In some states, missing one appointment with UI staff is considered to be evidence of unavailability for work, whereas other states are concerned only with repeated broken appointments, and still other states never consider this to be a reason to initiate a determination.

OVERVIEW OF THE DENIAL PROCESS

After a determination issue has been identified, a fact-finding process is undertaken to gather information from both the claimant and the employer. The state's laws and regulations are then applied to those facts, and a decision is made as to whether UI benefits will be awarded to a claimant. Research indicates that the percentage of claims that are denied for nonmonetary reasons in any given state is influenced more heavily by the percentage of claims in which the state makes a determination than by the percentage of determinations that ultimately lead to denials in that state (Corson, Hershey, and Kerachsky 1986).[5] As a result, the likelihood that any claim will ultimately be denied is a function of both the percentage of claims in which a determination is made and the percentage of determinations that lead to denial, but the former factor is more the more important of the two.

Corson, Hershey, and Kerachsky (1986) identified the following three factors which also influence the denial rate: (1) the extent to which all fact-finding is part of a recognized determination process; (2) the extent to which states use in-person interviews; and (3) the extent to which a single staff person conducts both fact-finding and adjudication.

OVERVIEW OF THE APPEAL PROCESS

The Social Security Act, under which the UI system was established, requires that when the determination process results in a denial of UI benefits, each state must provide an "opportunity for a fair hearing before an impartial tribunal" (Section 303(a)(3)). Every state also allows employers to appeal UI benefit awards to claimants, and the state agency may also be involved in an appeal. As a result of the 1971 U.S. Supreme Court decision in *California Department of Human Resources* v. *Java* (402 U.S. 121, 91 S.Ct. 1347, 28 L.Ed.2d 666), claimants who have been found eligible for benefits are allowed to continue receiving benefits unless and until a decision is made that reverses that determination. Thus, an employer's filing an appeal does not stop payment of benefits.

All states allow a claimant or employer at least one administrative appeal, usually called a lower-authority or lower-level appeal. The amount of time the claimant or employer has to file this appeal varies by state, ranging from 7 to 30 calendar days after a benefit determination has been made.[6] In more than one-half of the states, a single hearing officer, generally referred to as a referee or examiner, decides the appeal at this stage. In the remaining states,

a panel comprised of a referee and two associates may also be used to decide the lower-authority appeal. In such cases, the referee is typically an administrative law judge, and the associates are representatives of the interests of employers and claimants. During the appeal, the officer(s) hears evidence from both the claimant and employer, conducts a cross-examination, and issues a written ruling, called a decision. This decision is final, pending further appeal, in all states except four, in which referees are permitted to reconsider their decisions within a certain time limit.[7]

Although this is not required by the Social Security Act, all but three states also provide claimants and employers the opportunity to file a second administrative appeal, usually called a higher-authority or higher-level appeal.[8] Again, filing time requirements vary across states, ranging from 8 to 30 calendar days after a lower-authority appeal decision has been made. In about half of the states, a board of review or board of appeals is specifically formed to decide UI higher-authority appeals. These boards are appointed by the governor and consist of between three and seven members, who represent labor, employers, and the public.[9] In the other states, an existing commission or agency head serves as the higher-appeal authority. All states allow these decisions to be appealed to the state courts for judicial review.

TRENDS IN DETERMINATIONS AND DENIALS

Determination Rates

According to data submitted by the states, 37 percent of all new claimant unemployment spells in the United States in 1994 resulted in some form of a nonmonetary determination.[10] The total number of nonseparation determinations (3.4 million) was slightly higher than the number of separation determinations (3.2 million). Nonseparation determinations, however, have generally been decreasing, and separation determinations have been increasing as a share of total determinations since 1978.

Determination Rates for Separation Issues

In 1994, approximately 18 percent of new claimant unemployment spells resulted in a *separation* determination. The ratio of separation determinations to new claimant spells has fluctuated over time, but has been increasing since its low of 11 percent in 1982 (see column 1 in Table 8-1). Approximately half

TABLE 8-1. U.S. Determination and Denial Rates for Separation and Nonseparation Issues, 1971-1994

Year	Separation Issues			Nonseparation Issues		
	Determination Rate per Initial Claim (percent) (1)	Denials per Determination (percent) (2)	Denial Rate per Initial Claim (percent) (3)	Determination Rate per 10 Claimant Contacts (percent) (4)	Denials per Determination (percent) (5)	Denial Rate per 10 Claimant Contacts (percent) (6)
1971	15	51	8	34	39	13
1972	17	53	9	39	38	15
1973	18	54	10	43	37	16
1974	15	55	8	35	38	13
1975	15	54	8	29	38	11
1976	18	54	10	41	37	15
1977	19	53	10	43	37	16
1978	20	53	11	49	36	18
1979	18	55	10	42	37	15
1980	14	57	8	31	41	13
1981	14	56	8	31	43	13
1982	11	55	6	23	46	11
1983	13	53	7	24	45	11
1984	14	53	7	27	46	13
1985	14	52	7	25	51	13
1986	15	53	8	25	56	14
1987	16	53	9	26	57	15
1988	17	54	9	27	57	15
1989	17	54	9	25	60	15
1990	16	55	9	23	62	14
1991	15	56	8	20	61	13
1992	16	56	9	20	61	12
1993	18	56	10	21	61	13
1994	18	56	10	21	60	13

SOURCE: U.S. Department of Labor (1995b).

of the separation determinations in 1994 were for issues related to voluntary leaving, and the other half related to misconduct.

Given the wide range of state procedures for detecting nonmonetary eligibility issues, it is to be expected that determination rates vary significantly by state, as shown for separation issues in Table 8-2. (The table shows the number of separation determinations per new UI spell as well as the state rank; Nebraska has the highest determination rate, with a rank of 1.) The 1994 ratio of separation determinations to new claimant spells ranged from a low of 8 percent in the Virgin Islands and Kentucky to a high of 89 percent in Nebraska.[11] As mentioned previously, significant differences in determination rates across states are likely to arise from different detection procedures as well as from varying definitions of what constitutes a determination.

Determination Rates for Nonseparation Issues

Because claimants may become ineligible at any time while receiving UI, nonseparation issues are usually expressed as a percentage of weekly claimant contacts (that is, of all weeks that UI benefits are claimed by active UI claimants). In this chapter, *nonseparation* determinations are expressed per 10 weekly claimant contacts. In 1994, of every 10 claimant contacts, 2.1 (or 21 percent) resulted in a *nonseparation* determination (see column 4 of Table 8-1).

In 1994, 38 percent of nonseparation determinations related to "able and available" issues, 25 percent to claimants earning potentially disqualifying income, 21 percent to reporting requirements, and 5 percent to refusal of suitable work; the remaining 11 percent related to "other" issues. Over time, the determination rate for able-and-available issues has decreased, becoming a much smaller proportion of total nonseparation determinations.

By state, the 1994 rate of nonseparation determinations per 10 claimant contacts ranged from a low of 2 percent in Tennessee to a high of 84 percent in Utah (see Table 8-3).

Denial Rates

Two related measures[12] can be used to describe the frequency with which denials occur: (1) the ratio of denials to determinations and (2) the ratio of denials to either new claimant unemployment spells (for separation issues) or weekly claimant contacts (for nonseparation issues). Table 8-1 displays both measures and shows that in 1994, 56 percent of all *separation* determinations resulted in denials and 60 percent of all *nonseparation* determinations resulted in denials.

TABLE 8-2. Determination and Denial Rates for Separation Issues, by State, 1994

State	Determination Rate per Initial Claim		Denials per Determination		Denial Rate per Initial Claim	
	Rate	Rank	Rate	Rank	Rate	Rank
Alabama	12%	48	78%	2	9%	28
Alaska	16	30	73	8	12	18
Arizona	30	7	57	30	17	8
Arkansas	18	26	75	5	13	13
California	15	34	47	41	7	42
Colorado	43	2	70	9	30	2
Connecticut	21	16	26	53	5	49
Delaware	19	25	74	6	14	12
District of Columbia	14	41	64	16	9	31
Florida	25	13	64	15	16	11
Georgia	21	18	63	18	13	15
Hawaii	17	28	50	37	8	34
Idaho	15	33	60	24	9	29
Illinois	20	20	57	29	11	21
Indiana	35	4	57	27	20	3
Iowa	19	22	57	28	11	23
Kansas	25	12	43	47	11	25
Kentucky	8	52	65	14	5	50
Louisiana	35	3	55	33	20	4
Maine	15	37	40	49	6	48
Maryland	27	9	70	10	19	5
Massachusetts	14	39	56	31	8	36
Michigan	21	17	60	23	13	16
Minnesota	16	29	45	46	7	41
Mississippi	23	14	75	4	17	7
Missouri	27	10	60	22	16	9
Montana	16	32	62	20	10	27
Nebraska	89	1	83	1	74	1
Nevada	33	5	56	32	18	6
New Hampshire	26	11	48	40	12	17
New Jersey	12	49	68	13	8	37

(continued)

TABLE 8-2. (continued)

State	Determination Rate per Initial Claim		Denials per Determination		Denial Rate per Initial Claim	
	Rate	Rank	Rate	Rank	Rate	Rank
New Mexico	20%	19	59%	25	12%	20
New York	15	36	51	36	8	40
North Carolina	12	45	69	12	9	32
North Dakota	14	40	47	43	7	46
Ohio	13	43	62	19	8	38
Oklahoma	23	15	59	26	13	14
Oregon	19	21	42	48	8	35
Pennsylvania	11	50	47	42	5	51
Puerto Rico	12	47	35	52	4	52
Rhode Island	12	46	49	39	6	47
South Carolina	14	42	77	3	11	26
South Dakota	19	23	63	17	12	19
Tennessee	10	51	69	11	7	43
Texas	32	6	50	38	16	10
Utah	28	8	40	50	11	22
Vermont	15	35	73	7	11	24
Virgin Islands	8	53	46	45	4	53
Virginia	16	31	53	35	8	33
Washington	17	27	53	34	9	30
West Virginia	13	44	61	21	8	39
Wisconsin	15	38	46	44	7	45
Wyoming	19	24	36	51	7	44

NOTE: Rank = state rank, by rate. The higher a state's rate, the lower its rank.

According to knowledgeable sources in the Unemployment Insurance Service, there are problems with some data reported by Nebraska.

SOURCE: U.S. Department of Labor (1995b).

TABLE 8-3. Determination and Denial Rates for Nonseparation Issues, by State, 1994

State	Determination Rate per 10 Claimant Contacts		Denials per Determination		Denial Rate per 10 Claimant Contacts	
	Rate	Rank	Rate	Rank	Rate	Rank
Alabama	53%	3	84%	10	45%	2
Alaska	30	13	70	25	21	13
Arizona	44	7	70	26	30	8
Arkansas	20	24	85	7	17	16
California	21	23	63	32	13	26
Colorado	38	10	90	4	34	6
Connecticut	22	22	48	49	10	34
Delaware	10	46	88	5	8	40
District of Columbia	7	52	75	20	5	50
Florida	8	48	78	16	6	45
Georgia	13	43	94	2	12	31
Hawaii	17	35	75	19	13	27
Idaho	35	11	99	1	35	5
Illinois	18	30	51	48	9	38
Indiana	18	31	85	8	15	19
Iowa	17	34	58	37	10	36
Kansas	26	18	65	30	17	17
Kentucky	8	49	68	27	5	49
Louisiana	30	14	86	6	26	11
Maine	50	5	59	36	30	9
Maryland	24	20	58	38	14	24
Massachusetts	15	39	55	41	9	39
Michigan	19	27	54	44	10	35
Minnesota	19	26	82	13	16	18
Mississippi	23	21	53	45	12	30
Missouri	38	9	84	12	32	7
Montana	12	44	56	39	6	44
Nebraska	76	2	79	15	60	1
Nevada	18	29	84	11	15	20
New Hampshire	52	4	55	43	28	10
New Jersey	13	41	55	42	7	42

(continued)

TABLE 8-3. (continued)

State	Determination Rate per 10 Claimant Contacts		Denials per Determination		Denial Rate per 10 Claimant Contacts	
	Rate	Rank	Rate	Rank	Rate	Rank
New Mexico	16%	38	39%	52	6%	46
New York	25	19	47	50	12	32
North Carolina	17	36	74	21	12	28
North Dakota	20	25	75	17	15	21
Ohio	13	42	61	33	8	41
Oklahoma	11	45	60	35	7	43
Oregon	18	32	79	14	14	23
Pennsylvania	27	17	18	53	5	51
Puerto Rico	16	37	72	22	12	33
Rhode Island	17	33	70	24	12	29
South Carolina	9	47	63	31	6	48
South Dakota	49	6	75	18	37	4
Tennessee	2	53	67	29	1	53
Texas	27	15	53	46	14	22
Utah	84	1	53	47	44	3
Vermont	14	40	68	28	10	37
Virgin Islands	7	50	84	9	6	47
Virginia	27	16	92	3	25	12
Washington	19	28	71	23	13	25
West Virginia	7	51	56	40	4	52
Wisconsin	30	12	61	34	18	15
Wyoming	41	8	45	51	18	14

NOTE: Rank = state rank, by rate. The higher a state's rate, the lower its rank.

According to knowledgeable sources in the Unemployment Insurance Service, there are problems with some data reported by Nebraska.

SOURCE: U.S. Department of Labor (1995b).

Denial Rates for Separation Issues

In 1994, approximately 10 percent of all new claimant unemployment spells resulted in a *separation* denial (see column 3 in Table 8-1). The ratio of separation denials to new claims has fluctuated over time, but has been increasing since a low of 6 percent in 1982.

In 1994, the percentage of determinations that resulted in denial was 72 percent for issues related to voluntary leaving, and 41 percent for issues related to misconduct. Thus, determinations related to voluntary leaving are more likely to result in a denial of benefits than are misconduct determinations. In the majority of states, these denials resulted in disqualification for benefits for the duration of the individual's unemployment spell.

By state, the 1994 percentage of new claimant unemployment spells that resulted in a separation denial ranged from a low of 4 percent in Puerto Rico and the Virgin Islands to a high of 74 percent in Nebraska (see note 11). The last two columns of Table 8-2 display the number of separation denials per initial claim and the state rank.

Denial Rates for Nonseparation Issues

In 1994, of every 10 claimant contacts, 1.3 (or 13 percent) resulted in a *nonseparation* denial (see column 6 in Table 8-1). Although the nationwide rate of nonseparation denials per determination has increased significantly over time, the rate of nonseparation determinations per 10 claimant contacts has decreased (see column 4 in Table 8-1). Over time, this has resulted in a fairly steady rate of nonseparation denials per claimant contact. In 1994, 37 percent of denials were related to able-and-available issues, 25 percent to disqualifying income, 22 percent to reporting requirements, and 2 percent to refusal of suitable work; the remaining 14 percent related to "other" issues.

In 1994, nonseparation denials were most likely to occur in determinations involving violations of reporting requirements (66 percent of such determinations were denied), the earning of disqualifying income (61 percent denied), or being unable to work or unavailable for work (59 percent denied). Denials for these issues resulted in a temporary denial of benefits; as soon as the claimant's condition changed, he or she regained UI benefits. Only 28 percent of determinations related to refusing suitable work resulted in a denial of benefits. (In most states, an individual disqualified for this issue would subsequently be ineligible for benefits for the remainder of his or her unemployment spell). Over time, the rate at which denials are made per

determination has increased significantly for able-and-available issues and for reporting requirements. The rate has remained fairly stable in regard to other issues.

Table 8-3 shows that the 1994 rate of nonseparation denials per 10 claimant contacts ranged from a low of 1 percent in Tennessee to a high of 60 percent in Nebraska (see note 11).

TRENDS IN APPEALS

Because of data limitations, all trends in appeals are examined for this report using data on lower- and higher-authority appeals decisions, rather than data on the *number of appeals filed.* Consequently, the terms "appeals" and "decisions" are used interchangeably throughout this section to refer to appeal decisions.[13]

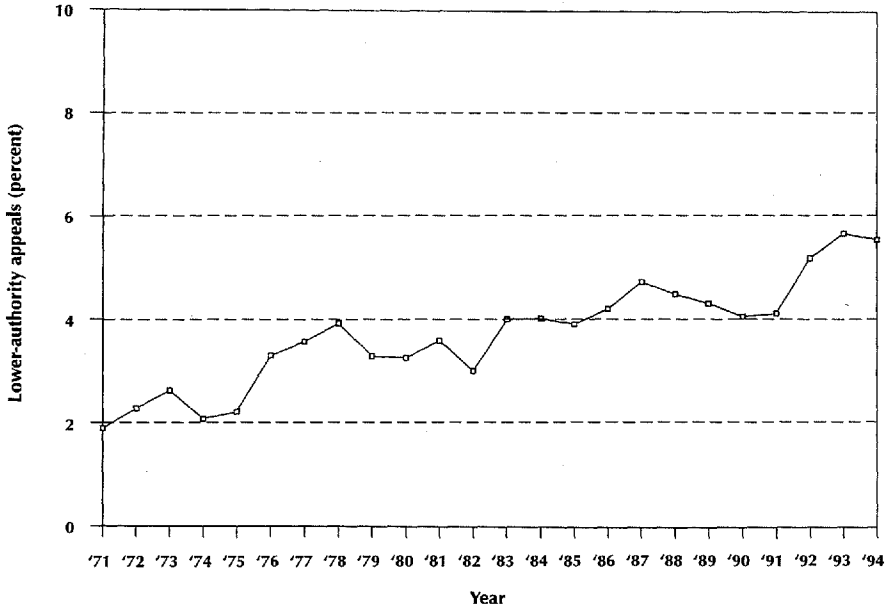
Lower- and Higher-Authority Appeals

Total appeals increased substantially between 1971 and 1994, with 1.2 million total appeals decisions in 1994—more than 3 times the total in 1971. Lower-authority appeals constitute the majority of all appeals. They also were responsible for most of the increase in the number of total appeals. The number of lower-authority appeals decisions in 1994 was almost 1 million—also more than 3 times the number in 1971.

The number of lower-authority appeals increased during recessionary periods between 1971 and 1994, in large part because of the increased number of initial claims for UI benefits filed during recessions. However, recession-induced increases in lower-authority appeals do not entirely account for the overall increase. Lower-authority appeals as a percentage of initial claims increased steadily, from 1.8 percent in 1971 to 5.6 percent in 1994 (see Figure 8-1).[14] Similarly, lower-authority appeals expressed as a percentage of total denials increased sharply, from 11 percent in 1971 to 26 percent in 1994.[15]

Higher-authority appeals comprise a much smaller proportion of total appeals than do lower-authority appeals, but higher-authority appeals also displayed a steady upward trend between 1971 and 1994. The number of higher-authority appeals in 1994 was 180,000—almost 4 times greater than in 1971. However, as a proportion of lower-authority appeals decisions, higher-authority appeals remained relatively constant, fluctuating between about 15 percent and 20 percent between 1971 and 1994.

FIGURE 8-1. Total Lower-Authority Appeals as a Percentage of Total Initial UI Claims, 1971-1994



SOURCE: U.S. Department of Labor (1995b).

By state, the numbers of lower- and higher-authority appeals vary greatly. Table 8-4 displays the percentage of initial claims that were denied and appealed in each state in 1994. Tennessee had the lowest percentage of denials per initial claim at 8 percent, while Nebraska had the highest at 123 percent.[16] Total lower-authority appeals as a percentage of initial claims ranged from 2 percent in Idaho to 14 percent in Colorado. Appeals as a percentage of denials ranged from 4 in Nebraska to 73 percent in the District of Columbia.[17]

Lower-Authority Appeals Decisions, by Issue

Between 1971 and 1994, appeals of separation determinations accounted for, on average, about 60 percent of all lower-authority appeals, whereas appeals of nonseparation determinations accounted for about 40 percent of the total. The share of separation appeals increased slightly throughout the 1980s and early 1990s, amounting to 67 percent of total decisions in 1994. Separation appeals as a percentage of separation denials increased from about 15 percent in 1971 to about 38 percent in 1994, whereas nonseparation appeals as a percentage of nonseparation denials increased from 8 percent to 16 percent.

Furthermore, substantial changes occurred in the issues involved in lower-authority appeals during the years examined. Appeals of misconduct disputes almost doubled. By 1994, misconduct appeals made up the largest proportion of total lower-authority appeals, at 38 percent. Appeals of voluntary quit disputes, on the other hand, decreased from 40 percent of total lower-authority appeals in 1971 to 30 percent in 1994. As a percentage of total lower-authority appeals, appeals related to refusal of suitable work, able-and-available issues, and labor dispute issues were significantly lower in 1994 than in 1971 (amounting to 2 percent, 6 percent, and less than 1 percent, respectively, of total lower-authority appeals in 1994). Other nonseparation appeals, which include issues of receiving disqualifying income and failing to comply with reporting requirements, were almost 2 times greater in 1994 than in 1971, amounting to 24 percent of total lower-authority appeals in 1994.[18]

Lower- and Higher-Authority Appeals, by Claimants and Employers

Overall, claimants file a greater *number* of lower- and higher-authority appeals than do employers.[19] Claimant appeals made up about 74 percent and 68 percent of lower- and higher-authority appeals, respectively, in 1994. However, employers' lower-authority appeal *rates* have increased more than claimants' have in the past 10 years. The employer rate of lower-authority

TABLE 8-4. Lower-Authority Denials and Appeals as a Percentage of Initial UI Claims, by State, 1994

State	Denials as a Percentage of Initial Claims		Appeals as a Percentage of Denials		Appeals as a Percentage of Initial Claims	
	Rate	Rank	Rate	Rank	Rate	Rank
Alabama	37%	8	13%	47	5%	32
Alaska	30	16	10	49	3	48
Arizona	49	3	24	29	12	2
Arkansas	26	19	21	36	5	27
California	18	36	25	26	5	35
Colorado	62	2	23	30	14	1
Connecticut	17	41	38	10	6	21
Delaware	22	26	34	14	7	17
District of Columbia	16	44	73	1	11	3
Florida	23	22	43	7	10	10
Georgia	20	30	28	20	6	25
Hawaii	20	31	22	32	4	36
Idaho	34	11	5	50	2	51
Illinois	21	29	40	8	8	15
Indiana	32	12	27	24	9	12
Iowa	19	33	54	3	11	4
Kansas	26	17	40	9	10	6
Kentucky	8	50	37	12	3	47
Lousiana	43	5	24	28	10	5
Maine	31	14	16	44	5	30
Maryland	34	10	29	19	10	8
Massachusetts	18	39	32	16	6	26
Michigan	21	28	16	45	3	46
Minnesota	24	20	25	27	6	22
Mississippi	26	18	31	18	8	16
Missouri	41	6	18	42	7	18
Montana	16	42	11	48	2	50
Nebraska	123	1	4	51	5	28
Nevada	31	13	27	23	9	13
New Hampshire	35	9	17	43	6	24
New Jersey	16	43	38	11	6	23

(continued)

TABLE 8-4. (continued)

State	Denials as a Percentage of Initial Claims		Appeals as a Percentage of Denials		Appeals as a Percentage of Initial Claims	
	Rate	Rank	Rate	Rank	Rate	Rank
New Mexico	18%	38	56%	2	10%	7
New York	22	25	23	31	5	31
North Carolina	14	46	26	25	4	43
North Dakota	18	37	28	22	5	29
Ohio	15	45	14	46	2	49
Oklahoma	19	34	43	6	8	14
Oregon	19	35	21	34	4	41
Pennsylvania	9	49	46	4	4	39
Rhode Island	17	40	19	40	3	45
South Carolina	14	47	28	21	4	42
South Dakota	37	7	18	41	7	20
Tennessee	8	51	46	5	4	44
Texas	30	15	32	15	10	9
Utah	48	4	20	39	10	11
Vermont	21	27	21	37	4	37
Virginia	23	21	20	38	5	34
Washington	22	24	21	35	5	33
West Virginia	12	48	37	13	4	38
Wisconsin	20	32	22	33	4	40
Wyoming	22	23	32	17	7	19

NOTE: Rank = state rank, by rate. The higher a state's rate, the lower its rank.

According to knowledgeable sources in the Unemployment Insurance Service, there are problems with the denial rates reported by Nebraska. It is possible, however, for denials as a percentage of initial claims to exceed 100 percent in this table because the denominator of this ratio does not include the number of weeks that UI benefits are claimed by active UI claimants (that is, weekly claimant contacts). Therefore, exclusion of the weeks of claimant contacts from the denominator causes the denial rate to be overestimated. Measuring total denials as a proportion of total initial claims, however, allows this ratio to be directly compared with the ratio of total appeals to initial claims.

SOURCE: U.S. Department of Labor (1995b).

appeals doubled over this period, from almost 5 percent in 1983 to almost 10 percent in 1994, whereas the claimant rate leveled off (see Figure 8-2). In contrast, the trend in the ratio of higher-authority appeals to unfavorable lower-authority appeals was similar for claimants and employers between 1971 and 1994.

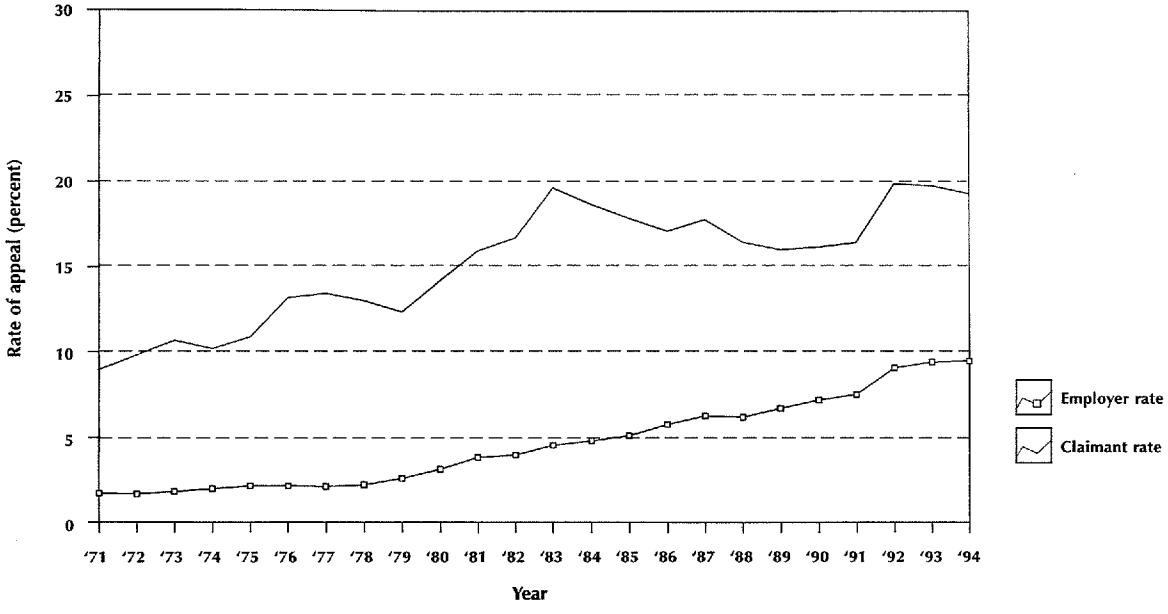
In addition, the difference in success rate by employers and claimants has changed over time. Currently, employers win a slightly higher percentage of the lower-authority appeals that they file than do claimants. Employer appellants, however, won a smaller percentage of decisions at the lower appeals levels between 1971 and 1994, whereas claimant appellants won a larger percentage (see Figure 8-3). Similar trends are observed for higher-authority appeals. The gap between appellant success rates for employers and claimants at both levels of appeals declined substantially, with success rates converging around 32 percent for appellants in lower-authority appeals and 18 percent in higher-authority appeals. Thus, the success rate of employer appellants is falling at both the lower- and higher-authority appeals, while at the lower authority, their appeal rate is increasing.

SUMMARY

Overall, the number of times a state denies benefits to UI claimants on the basis of nonmonetary eligibility issues is more dependent on the number of determinations than on the percentage of determinations that lead to denials. Currently, 10 percent of all new claimant unemployment spells result in separation denials, and 1.3 percent of all claimant contacts result in nonseparation denials. There have not been large shifts in the nationwide denial rates, but the rate of determinations and the percentage of determinations resulting in denials differ for separation and nonseparation issues. In cases involving separation issues, both rates have been increasing slightly, although in cases involving nonseparation issues, the determination rate has been increasing but the percentage of determinations resulting in a denial has been decreasing. In addition, some nonmonetary issues are more likely to result in denials than are others. Most notably, voluntary leaving issues and violations of reporting requirements are most likely to result in denials, and issues related to misconduct and refusal of suitable work are least likely to result in denials. There is large variation across states in their reported determination and denials rates.

Between 1971 and 1994, the number of both lower- and higher-authority appeals increased. Lower-authority appeals as a percentage of both initial

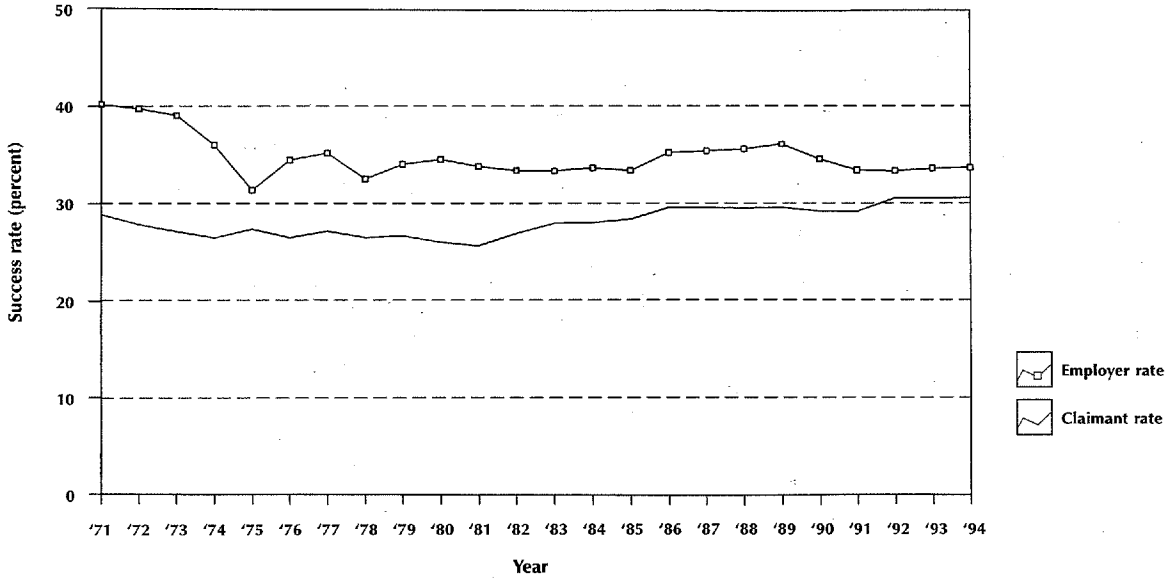
FIGURE 8-2. Claimant and Employer Rates of Lower-Authority UI Appeals, 1971-1994



NOTE: The lower-authority appeals rate is the percentage of unfavorable decisions received by the claimant (employer) that the claimant (employer) appealed.

SOURCE: U.S. Department of Labor (1995b).

FIGURE 8-3. Claimant and Employer Success Rates, Lower-Authority UI Appeals, 1971-1994



NOTE: The success rate is the percentage of lower-authority appeals filed by the claimant (employer) that the claimant (employer) won.

SOURCE: U.S. Department of Labor (1995b).

claims and denials also increased. Furthermore, within lower-authority appeals, separation appeals as a percentage of separation denials and nonseparation appeals as a percentage of nonseparation denials both increased. In particular, appeals of misconduct issues increased substantially, whereas appeals of voluntary quit, refusal of suitable work, and able-and-available issues decreased.

For the period examined, the number of appeals filed by claimants was higher than the number filed by employers. Employers, however, were appealing at an increasing rate over time. The success rate of employers in winning the appeals that they filed decreased at both lower and higher authorities, whereas the success rate of claimant appellants increased. In 1994, both employers and claimants who filed appeals were winning about 32 percent of the lower-authority appeals and about 18 percent of the higher-authority appeals.

NOTES

1. For more information on monetary eligibility, see Chapter 7 of Advisory Council on Unemployment Compensation (1995).

2. Corson, Hershey, and Kerachsky (1986) is the source of the information on how nonmonetary determinations and denials are made.

3. For more information on nonmonetary eligibility definitions, see Advisory Council on Unemployment Compensation (1995, 101-123).

4. In addition, some of these factors could affect the number of individuals who apply for benefits.

5. Stated somewhat differently, there is significantly more variation across states in determinations per initial claim than in the ratio of denials to determinations.

6. Specific state information on filing time and hearing officers for lower- and higher-authority appeals was obtained from U.S. Department of Labor (1995d).

7. Referees in Hawaii, Ohio, and Tennessee have up to 30 days to reconsider a decision; in Michigan, referees have up to 10 days to reconsider.

8. Hawaii, Nebraska, and the Virgin Islands do not provide a second administrative appeal. Appeals of lower-authority decisions in these states are taken directly to the state courts for judicial review.

9. Exceptions are Mississippi, where the board is appointed by the Employment Security Commission, and New Jersey, where the board is appointed by the Director of Employment Security.

10. Data for the analysis of trends in determinations, denials, and appeals were extracted from the Unemployment Insurance Required Reports (UIRR) database, which contains statistics provided by the states.

11. According to the Unemployment Insurance Service, there are problems with some data reported by Nebraska.

12. The denial rate per initial claim (column 3 in Table 8-1) is the mathematical product of the determination rate per initial claim (column 1) and the denials per determination (column 2).

13. The states report UI appeals information monthly by filing Report 5130 of the UIRR. Other than the number of appeals filed each month, Report 5130 provides information in terms of decisions made on higher- and lower-authority appeals. Therefore, to remain consistent, the analysis reported here uses "decisions" to approximate "appeals."

Between 1971 and 1994, the percentage of lower-authority appeals decided ranged from 83 percent to 100 percent, and was below 93 percent in only four of those years. The percentage of higher-authority appeals decided ranged from 84 percent to 100 percent, and was below 93 percent in only six of those years. Therefore, the number of decisions closely approximates the number of appeals and is adequate to analyze trends in UI appeals.

14. The number of initial claims has increased 15 percent between 1971 and 1994.

15. In contrast to the increase in initial claims, the number of denials has remained relatively constant between 1971 and 1994.

16. According to the Unemployment Insurance Service, there are problems with the denial rates reported by Nebraska. It is, however, possible for this ratio to exceed 100 percent because the denominator of the ratio does not include the number of weeks that UI benefits are claimed by active UI claimants (that is, weekly claimant contacts). Therefore, exclusion of the weeks of claimant contacts from the denominator in Table 8-4 causes the denial rate to be overestimated. Measuring total denials as a proportion of initial claims, however, allows this ratio to be directly compared with the ratio of total appeals to initial claims.

17. Again, misreporting of data by Nebraska may make this figure artificially low.

18. Because the UIRR Report 5130 does not separate the "other" category by issue, changes over time in appeals decisions with respect to specific issues within this category cannot be determined.

19. The figures in this section include only lower- and higher-authority appeals involving claimants and employers. Appeals in which the UI agency was a party are excluded. They represent an average of 0.1 percent of total lower-authority appeals and 1 percent of higher-authority appeals during the period 1971 to 1994.

9 / Analysis of Denials and Appeals

THIS CHAPTER FOCUSES ON A NUMBER OF FACTORS that may affect the declining receipt of Unemployment Insurance (UI) among the unemployed. The next major section, "Explaining Denial Rates, Appeal Rates, and Appeal Outcomes," examines the following : (1) the rates at which state agencies deny benefits to UI claimants, (2) the rates at which employers and claimants appeal those decisions, and (3) the success rates of employers and claimants, or the rates at which they win the appeals they bring. (The trends discussed in the section were considered in detail in Chapter 8.) Using aggregate state data from 1978 to 1990, the section entitled "Analysis of Appeal-Level Data" then provides some explanation for the variation across states in the three measures. Using 1994 appeal-level data from Texas and Wisconsin, additional research is conducted on the rates at which appeals are made and the parties that are likely to win their appeals. The final section, "Case Study of Lower-Authority Appeals," discusses the ACUC case study of the appeals system in eight states.

EXPLAINING DENIAL RATES, APPEAL RATES, AND APPEAL OUTCOMES

In its discussion of trends in denial rates and appeal rates, the preceding chapter indicates that there are significant differences in these rates, both across states and over time. Awareness of these trends is important because more appeals require more financial resources and time—and, as pointed out in Chapter 8, the number of appeals has been increasing in recent years. While claimants clearly have a right to appeal their UI decisions, the increase in the number of appeals could signal problems elsewhere in the overall UI

program. Such problems may be related to changes in state administration and eligibility criteria. Because the denial and appeal rates are directly linked to UI eligibility and to the receipt of UI benefits, understanding the denial and appeal rates may improve understanding of the process of eligibility determination and how it affects UI claimants.

To understand the trends in denial rates, lower-authority appeal rates, and appeal outcomes over time and across states, the Advisory Council on Unemployment Compensation conducted regression analyses on these issues. Details of the research methodology are reported in Appendix B. This section discusses the empirical analyses using annual, state-level panel data from 1978 to 1990, and the next section presents the empirical research on appeal rates and success rates for both employers and claimants using microlevel data on appeals in two states—Wisconsin and Texas—for which data were available to the Advisory Council.

Factors Influencing Denial Rates, Appeal Rates, and Appeal Outcomes

For the regression analyses, the following variables were selected to describe the denial rates, appeal rates, and appeal outcomes: trust fund solvency, state tax collections, penalties associated with nonmonetary eligibility requirements, the efficiency of state administration, UI benefit generosity, and labor force characteristics.[1] The regressions included dummy variables representing each state, to determine which states had denial rates, appeal rates, or appeal outcomes that were higher or lower than would have been expected from the regression analysis.[2] The remainder of this section presents the results from the regressions and includes maps that display geographic patterns in denial rates. Only statistically significant results are discussed below.

Empirical Results

Separation and Nonseparation Denial Rates

To analyze denial rates, different equations were estimated for separation issues (issues raised by employers regarding claimants' separation from work) and nonseparation issues (raised by state agencies regarding claimants' ongoing eligibility for UI benefits). The variables used in this analysis explained more of the differences across states and time for separation issues than they explained for nonseparation issues.

The regression results indicate that high separation denial rates are associated with the following: (1) nonmonetary eligibility penalties for separation issues which disqualify individuals from receiving benefits for less than the full duration of unemployment (that is, more lenient penalties for voluntary quits and misconduct than are assessed by most states);[3] (2) lower weekly benefit amounts; (3) lower percentages of job losers; and (4) lower rates of unemployment. High nonseparation denial rates are associated with the following: (1) lower reserve ratios, (2) shorter duration of UI benefits,[4] (3) lower rates of unemployment, and (4) lower rates of unionization.

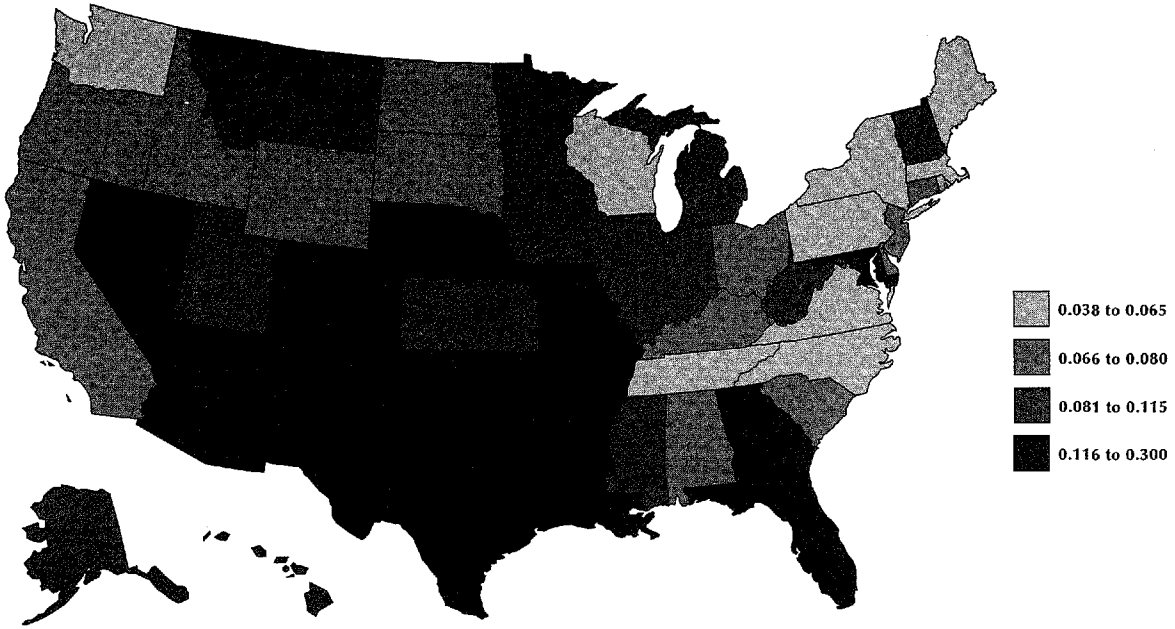
A large amount of state variation in denial rates could not be explained by the policy variables in the models discussed above.[5] An examination of the patterns of denial rates across the United States reveals geographic clusters of high and low rates. Figure 9-1 maps the average separation denial rate between 1978 and 1990, and Figure 9-2 maps the nonseparation denial rate for the same period. These maps indicate that states' denial rates display distinct geographical patterns. For example, Figure 9-2 displays a group of contiguous states in the East that have particularly low nonseparation denial rates, and it shows a large group of states in the West that have high nonseparation denial rates. These patterns could be the result of various factors—including cooperation among states or competition among states. In the case of either cooperation or competition, neighboring states may be adopting similar state laws or similar state administrative procedures, particularly in the area of eligibility.

The statistical significance of many of the coefficients of the state dummy variables from the regressions (presented in Appendix B) demonstrates that the state variation that remains unexplained has an impact on denial rates. An examination of the geographic patterns of the significant state coefficients (see Figures 9-3 and 9-4) finds clusters similar to those of the denial rates illustrated in Figures 9-1 and 9-2. For example, Figure 9-4 shows that the group of states in the West with high nonseparation denial rates (Figure 9-2), also has state coefficients that are positive and statistically significant. This indicates that the denial rates in these states are higher than would be expected, given the effects of the other independent variables included in the analysis. (All effects of the state dummy variables are relative to Pennsylvania.)

Employer and Claimant Appeal Rates

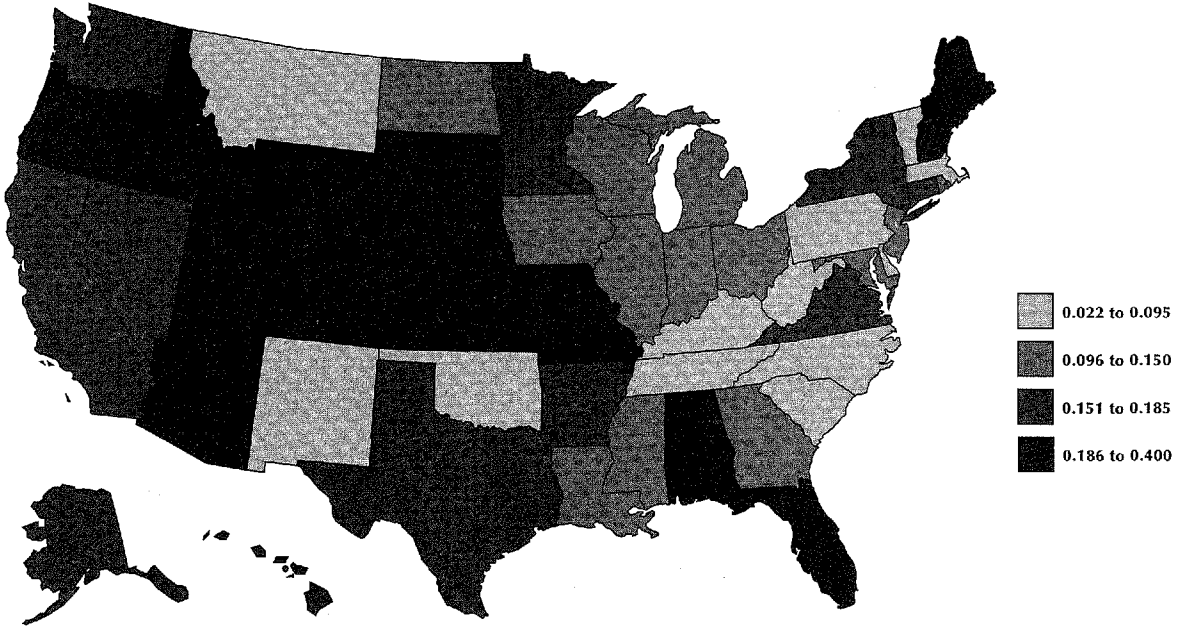
Separate regression equations were estimated for employer and claimant appeal rates. The variables used in these equations explained more of the

FIGURE 9-1. Average Rates at Which States Denied Benefits to UI Claimants on the Basis of Separation Issues, 1978-1990



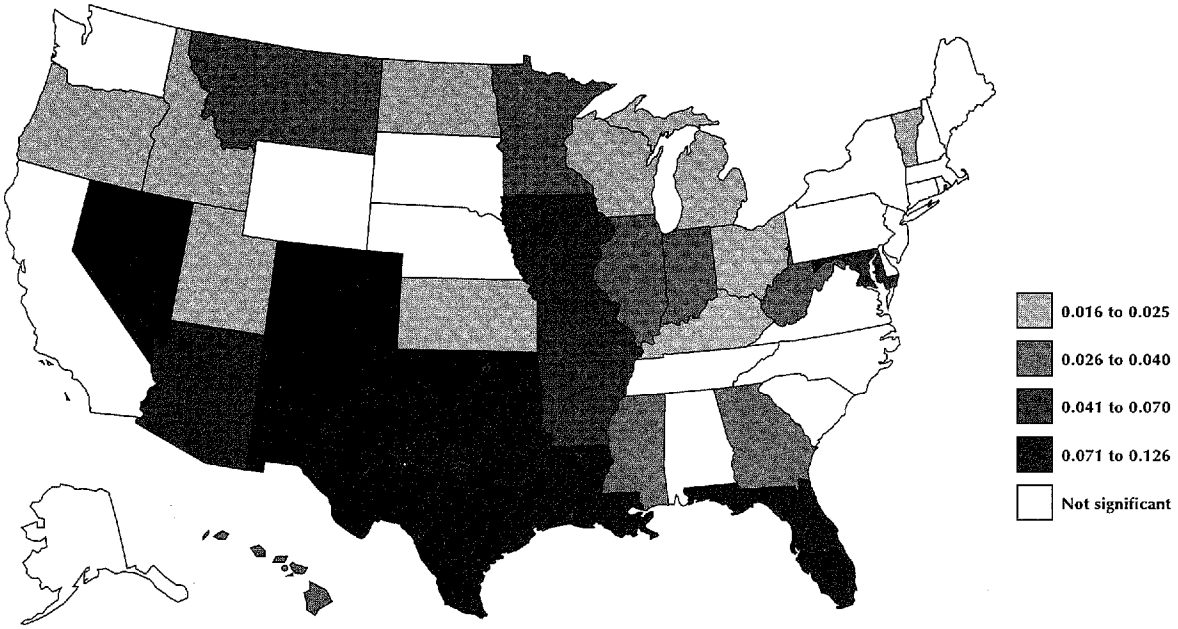
SOURCE: U.S. Department of Labor (1995b).

FIGURE 9-2. Average Rates at Which States Denied Benefits to UI Claimants on the Basis of Nonseparation Issues, 1978-1990



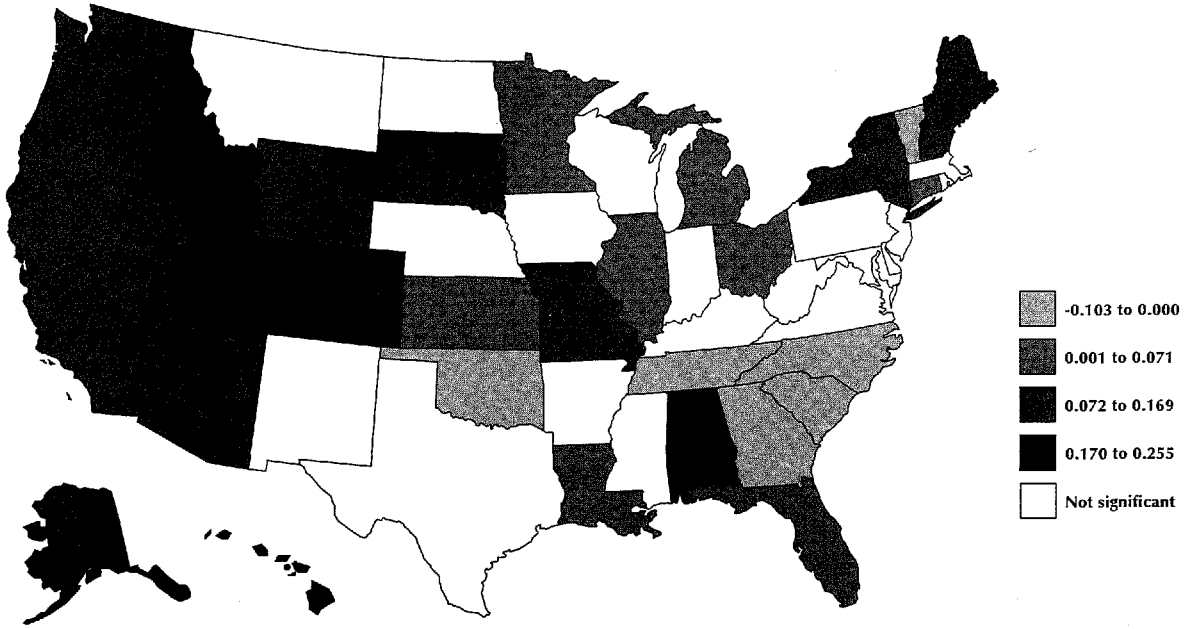
SOURCE: U.S. Department of Labor (1995b).

FIGURE 9-3. Statistically Significant State Coefficients from Regression Results for Separation Denials, 1978-1990



SOURCE: ACUC calculations using database compiled from the following: Council of State Governments (1970-1994); U.S. Department of Labor (1995a, b, c, d); and U.S. General Accounting Office (1993).

FIGURE 9-4. Statistically Significant State Coefficients from Regression Results for Nonseparation Denials, 1978-1990



SOURCE: ACUC calculations using database compiled from the following: Council of State Governments (1970-1994); U.S. Department of Labor (1995a, b, c, d); and U.S. General Accounting Office (1993).

differences across states and time for claimant appeal rates than they explained for employer appeal rates. The regression results indicate that high employer appeal rates are associated with the following: (1) higher state taxable wage bases, (2) more stringent penalties for misconduct discharges, (3) higher denial rates, (4) longer durations of UI benefits, (5) lower weekly benefit amounts (see note 4), (6) lower rates of unemployment, (7) lower rates of unionization, and (8) higher percentages of job losers (see note 4). High claimant appeal rates are associated with the following: (1) higher effective tax rates, (2) more lenient penalties for refusal of suitable work, (3) more stringent penalties for misconduct, (4) higher denial rates, (5) longer durations of UI benefits, (6) lower weekly benefit amounts (see note 4), and (7) lower rates of unionization.

The statistical significance of most of the state coefficients from the regressions (presented in Appendix B) indicates that unexplained state variation has a substantial impact on employer and claimant appeal rates. The results indicate that a group of contiguous states in the Midwest and Southwest has higher claimant appeal rates than would be expected (relative to those of the reference state, Pennsylvania). The significant state coefficients from the employer appeal rate equation, however, showed no strong geographic patterns.

Employer and Claimant Success Rates

Separate regression equations were estimated for employer and claimant success rates. Although individual variables in these regressions were significant, the overall models had low explanatory power (almost none of the variation across states and time was explained in either equation when the state dummy variables were excluded). The results indicate that among employer-initiated appeals, high employer success rates are associated with only the following variables: (1) lower effective tax rates and (2) lower rates of employer appeals. These results suggest that when states have low tax collections, employers are more likely to win their appeals at the lower authority.

A number of variables were significant predictors of claimant appeal success. The results indicate that, among claimant-initiated appeals, high claimant success rates are associated with the following: (1) lower effective tax rates, (2) lower state taxable wage bases, (3) more lenient penalties for voluntary quit and misconduct issues, (4) more stringent penalties for refusal of suitable work, (5) Democratic state government, (6) lower quality of nonmonetary determinations, (7) higher denial rates, (8) lower rates of unioniza-

tion, and (9) higher percentages of appeals filed by employers. Although the explanatory power of the model was low, most of the significant variables were anticipated.

Most of the states have insignificant coefficients in the employer success rate equation (presented in Appendix B), whereas in the claimant success rate equation, most have significant coefficients. Thus, the state dummy variables were better able to explain claimant success rates than to explain employer success rates.[6] The significant state coefficients indicate little geographic clustering of states with higher- or lower-than-expected employer or claimant success rates.

Summary

All of the regression equations presented in this section, especially the success rate equations, performed relatively poorly, for two primary reasons: (1) A number of variables were unavailable, although they could have added significant explanatory power to the model. For example, information on the administrative processes of the state UI programs and definitions of the nonmonetary eligibility requirements might have improved the regression equations' prediction of state variation (when the state dummy variables were excluded). (2) States are probably not the best unit of measurement, especially in the equations estimating the appeal behavior of claimants and employers. Appeal-level microdata—such as those presented in the next section—provide a better framework for answering these questions.

ANALYSIS OF APPEAL-LEVEL DATA

The following questions can more appropriately be answered with appeal-level data than with state-level data: (1) Does the current structure that finances UI benefits encourage employers to appeal legitimate cases or not? (2) What factors predict which party will win an appeal? This section provides background information on these two issues, and presents the results from an analysis of 1994 appeal-level data from Texas and Wisconsin.

Effect of Experience Rating on Appeal Rates and Success Rates

In most states, UI benefits are financed exclusively through employer payroll taxes that are assessed by the state.[7] States are currently required by the Federal Unemployment Tax Act to finance program benefits through an

"experience-rated" tax structure. Under experience rating, the rate of taxation for a given tax schedule varies with an individual employer's unemployment experience.[8] In other words, employers who create the most cost for the system are assessed the highest tax rates.[9] It is often argued that experience-rated taxes allow state governments and the federal government to influence employers' behavior in socially beneficial ways. Economists, however, often assert that the entity on which a tax is legislatively imposed (in this instance, employers) may be different from the entity that actually pays the tax.[10]

Recent research by Anderson and Meyer (1994), which focused specifically on the experience-rated UI tax that firms pay, indicates that firms are able to shift flat taxes (for example, the minimum tax rate within that firm's industry) to their employees, but that they are much less able to shift the portion of their taxes that is experience-rated. Thus, a significant percentage of experience-rated taxes are absorbed by the individual firm (see Chapter 7 on this subject).

As a result, an experience-rated UI tax (rather than a flat tax) is likely to promote UI program goals by affecting a firm's decision making. One such UI program goal is to provide a financial incentive for employers to police the UI program by protesting ineligible claims.[11] This program goal, however, may result in negative consequences—for example, inappropriate employer involvement in the eligibility determinations and appeals processes if some employers respond to the financial incentives by contesting legitimate UI claims.

Since their UI taxes are directly related to the extent to which their former employees receive UI benefits, employers have an incentive to contest UI claims. In 1994, employers were responsible for 26 percent of lower-authority appeals (a total of approximately 256,000 employer appeals). As previously discussed, the rate of employer appeals has grown more rapidly than that of claimant appeals (U.S. Department of Labor 1995b).

Description of Data from Texas and Wisconsin

The Advisory Council on Unemployment Compensation obtained 1994 microlevel data from two states—Texas and Wisconsin—that provided information on employer tax rates (in both states) and on the use of representation by employers and claimants at appeals hearings (in Wisconsin only).[12] The data from Texas were a random sample consisting of 20 percent of all experience-rated employers in 1994. These data were merged with the correspond-

ing lower-level appeals data for nonmonetary separation issues (3,561 hearings). The Wisconsin data included all lower-level appeals resulting from a nonmonetary separation issue in 1994 (11,746 hearings).

Empirical Results: Appeal Rates

The Texas and Wisconsin data confirm earlier findings that employers at the maximum tax rate are less likely to file appeals than are employers at other tax rates (see U.S. Department of Labor, Office of the Inspector General 1985). In Texas, employers brought 45 percent of all the appeals that involved employers at the maximum tax rate and 55 percent of all appeals involving employers at a tax rate other than the maximum. In Wisconsin, employers brought 19 percent of all appeals involving employers at the maximum tax rate and 31 percent of all appeals involving employers at a tax rate other than the maximum (see Table 9-1). This finding does not necessarily indicate that employers are making *excessive* use of the appeals system. Such a conclusion might be valid, however, if there was evidence that employer (or claimant) win rates vary systematically with an employer's level of experience rating.

Empirical Results: Success Rates

Tabulations of the data from Texas and Wisconsin do not provide evidence that employer success rates (that is, the number of appeals won by employers as a percentage of all appeals brought by employers) vary with experi-

TABLE 9-1. Employer Appeal and Success Rates, by Employer Tax Rate, in Texas and Wisconsin, 1994 (percent)

Tax Rate	Texas Data		Wisconsin Data	
	Appeal Rate	Success Rate	Appeal Rate	Success Rate
Less Than Maximum	55	14	31	26
Maximum Rate	45	14	19	28

NOTE: Data are based on 3,561 lower-authority appeal hearings from Texas and 11,746 lower-authority appeal hearings from Wisconsin in 1994.

Employer success rate is defined as the number of appeals that employers win as a percentage of all appeals filed by employers.

SOURCE: ACUC calculations, using data provided by Department of Industry, Labor, and Human Resources, State of Wisconsin; and Texas Employment Commission.

ence rating. Of the appeals filed by employers in Wisconsin, employers at the maximum tax rate won 28 percent and employers at all other tax rates won 26 percent. Of the appeals filed by employers in Texas, employers at the maximum tax rate won 14 percent and employers at all other tax rates also won 14 percent (see Table 9-1). Thus, this preliminary analysis of success rates by the level of experience rating does not provide evidence that employers are making excessive use of the appeals system.

It is important to note that at least two main factors influence the outcome of an appeal. The first is which parties participated in the hearing, and the second is which, if any, parties were represented (either by an attorney or by an advocate who is not an attorney, such as a union official or a third-party employer representative). The regression results for Wisconsin presented later in this chapter provide additional information on how tax rates influence employer success rates when important variables such as participation and representation are included. This more sophisticated analysis of employer success also indicates that these rates do not vary significantly with the experience-rated tax rate.

Finally, one might conclude that employers were making excessive use of the appeals system if they won a substantially lower percentage of the appeals that they filed compared to the percentage of appeals won by claimants who file them. (This could indicate that employers were filing appeals with less merit than the appeals filed by claimants.) There is no evidence that this is the case on a national level. In 1993, nationwide, employers won 34 percent of the appeals that they filed and claimants won 31 percent of the appeals that they filed (U.S. Department of Labor 1995b).

There is, however, considerable variation across states in the percentages of appeals won by employers and claimants. Wisconsin data indicate that, during 1994, employers won 28 percent of the appeals that they filed and claimants won 29 percent of the appeals they filed. In Texas, however, data indicate that employers won 14 percent of the appeals they filed and claimants won 67 percent of the appeals they filed. Texas employers filed a disproportionately higher share of appeals (55 percent compared to a national average of 26 percent), and claimants won a disproportionately higher share of appeals (78 percent compared to a national average of 31 percent). These statistics from Texas, while by no means conclusive, would be consistent with the hypothesis that employers in that state make excessive use of the appeals system.[13]

Other Factors Influencing Appeals Outcomes

Little research has been devoted to understanding the UI appeals process and the factors which affect the probability that either the employer or claimant will win. This section discusses two relevant factors relating to how well each side is able to present its case. The first factor is the importance of both parties participating in the hearing. The second is that representation may have a bearing on the effectiveness of case presentation. (See the section below, "Case Study of Lower-Authority Appeals," for additional information on these factors.)

The importance of participation depends on which separation issue is in question. The burden of proof is placed on employers for misconduct issues and on claimants for "voluntary quit" issues. Thus, if an employer did not attend a hearing for a misconduct issue, the claimant would most likely win. If an employer did not attend a hearing for a voluntary quit issue related to good cause, however, the verdict would depend on whether the claimant could prove he or she had good cause for leaving the job.

Participation

In both Texas and Wisconsin, claimants are more likely than employers are to participate in lower-authority appeals. In Wisconsin, claimants participated in 66 percent of the total hearings (participation by telephone is included), and employers participated in only 16 percent. The claimant was somewhat more likely to participate in the hearing when he or she was the appellant (68 percent) than when the employer was the appellant (59 percent). Employers participated in 16 percent of hearings in both circumstances.

In Texas, claimants participated in 70 percent of the total hearings (participation by telephone is included), and employers participated in 59 percent. When the claimant was the appellant, claimants participated in 86 percent of the hearings, whereas employers participated in 53 percent. When the employer was the appellant, however, claimants participated in 58 percent of the hearings, whereas employers participated in 65 percent. As expected, participation in a hearing increased the party's likelihood of winning when the other party did not participate. Table 9-2 displays these results.

Representation

A second factor that increases the likelihood that one side or the other will win an appeal is the use of representation (either an attorney or an advocate

TABLE 9-2. Lower-Authority Appeals Hearings: Appearance and Success Rates in Texas and Wisconsin, 1994

State	Who Appears at Hearing			
	Only Claimant	Only Employer	Both Parties	Neither Party
Texas				
Percent Appearing				
All Hearings	20	9	50	21
Claimant Appellant	36	3	50	12
Employer Appellant	7	14	51	28
Success Rate (number)				
Claimant	87	N.A.	73	N.A.
Employer	4	46	12	2
Number of observations	712	320	1,792	737
Wisconsin				
Percent Appearing				
All Hearings	53	3	13	32
Claimant Appellant	55	3	13	29
Employer Appellant	46	3	13	38
Success Rate (number)				
Claimant	43	1	33	2
Employer	23	59	33	30
Number of observations	6,168	324	1,508	3,746

NOTE: N.A. indicates that the information is not available because sample sizes were too small to estimate. *Success rate* is defined as the number of appeals claimants (employers) win as a percentage of all appeals brought by claimants (employers). Percents may not add to 100 due to rounding.

SOURCE: ACUC calculations, using 1994 data provided by Department of Industry, Labor, and Human Resources, State of Wisconsin; and Texas Employment Commission.

who is not an attorney). A recent process analysis of lower-authority appeals hearings in Wisconsin addressed this issue (Kritzer 1995).[14] Kritzer finds that representation in general can have a significant effect on UI appeals hearings. Representatives often perform one or more of the following functions: prepare a client for the UI hearing; help to frame the issue being appealed in a manner that best serves the client; ensure that necessary witnesses and documentation are brought to the hearing; and ask relevant questions of the parties and their witnesses. In most states, representation of claimants and employers can be by attorneys or by advocates who are not attorneys. There are, however, some differences in the type of representatives that claimants are likely to use and those that employers are likely to use.

Kritzer (1995) notes that claimant representatives are often union officials, or law students, or lawyers. Because the fees that attorneys earn when representing claimants in UI cases are limited in most states (including Wisconsin), lawyers represent claimants relatively infrequently, and often only when the case is connected in some way to another proceeding (for example, an allegation of harassment or discrimination). In contrast, claimants are more frequently represented by union officials or law students. Union officials usually represent claimants as part of their union duties, and law students are usually acting as volunteers when they represent claimants.

Because of the necessarily low fees that attorneys can charge claimants and the limited availability of most "voluntary" claimant representatives, claimants may be more likely to have representation when they have a strong case. Thus, it is possible that some portion of claimants with representation are more likely to win their cases because of the basic strength of the case than because of the actual contribution by advocates to the hearing process.

In general, employers are likely to be more familiar with the unemployment compensation appeals process than claimants are. Employers frequently are represented either by someone from inside the firm or by an agent outside the firm; this representative may or may not be an attorney. Larger firms are more likely to have either internal legal staff or human resources personnel who are familiar with the UI appeals system. Many firms also rely on third-party employer representatives—agents who specialize in monitoring and controlling firms' payroll costs, including costs associated with workers' compensation and unemployment compensation. Part of the responsibility of third-party representatives is to file appeals and represent firms at the actual hearings. As a result of the use of third-party representatives and because of the unrestricted fees that lawyers can charge employers (unlike claimants), employers are more likely than claimants to make use of

some type of representation in UI hearings. Additionally, firms that are large, have in-house experience with UI hearings, or contract with third-party representatives are more likely to bring a representative because of their easy access to these resources.

As a result of his observations of UI hearings in Wisconsin, Kritzer (1995) suggests that attorneys are not necessarily the most effective representatives in UI hearings for either claimants or employers. He finds that the most effective advocates are those that are most familiar with UI hearings procedures. Effective legal representatives, therefore, typically specialize in employment law and appear at UI hearings frequently. Effective representatives who are not attorneys are generally knowledgeable about specific UI rules, regulations, and procedures, and also specialize in providing representation at UI hearings.

In the appeal-level data used for this ACUC analysis, representation information was available only for Wisconsin. In 1994 in Wisconsin, parties (employer and/or claimant) were represented in only 6 percent of all appeals. When one party or the other was represented, that party increased its chance of winning the appeal. In addition, claimants were helped slightly more than employers when they were represented by an attorney (see Table 9-3).[15] The following subsection discusses a more sophisticated analysis using the Wisconsin data to determine how various factors influence the outcome of an appeals hearing.

Empirical Results

Using the appeal-level data from Wisconsin, two categories of factors were analyzed to determine their influence on the success rates of claimants and employers.[16] These categories include variables describing characteristics of the employer and variables describing characteristics of the appeal hearing. Appendix B contains a detailed discussion of the variables and the statistical technique used. The regression results are discussed in the following subsections.

Results: Employer Success Rate. The results on the success rates of employers indicate that they were more likely to win appeals when (1) the firm had more than 100 employees, (2) the employer appeared at the hearing, and (3) the employer was represented at the hearing. Employers were less likely to win their appeals when (1) the claimant appeared at the hearing, (2) multiple issues were contested (see note 4), and (3) the hearing was conducted by telephone.

TABLE 9-3. Lower-Authority Appeals Hearings: Success Rate, by Representation, Wisconsin, 1994

Success Rate	Only Claimant Represented (2.2%)	Only Employer Represented (3.2%)	Both Parties Represented (0.4%)	Neither Party Represented (94.1%)
Observations (number)	260	380	52	11,054
Claimant (percent)	55	24	46	28
Employer (percent)	25	41	N.A.	28

NOTE: N.A. indicates that the information is not available because sample sizes were too small to estimate. *Success rate* is defined as the number of appeals that claimants (employers) win as a percentage of all appeals brought by claimants (employers). Percents may not add to 100 due to rounding.

SOURCE: ACUC calculations, using 1994 data provided by Department of Industry, Labor, and Human Resources, State of Wisconsin.

Two variables that were not significant in this equation were the individual employer's tax rate and whether the claimant had legal representation. These two results are important, indicating that individual employer tax rates do not affect the employers' success in winning the appeals they bring, and that when an employer files the appeal, a claimant's use of legal representation does not significantly affect the outcome.

Results: Claimant Success Rate. The results on the success rate of employees indicate that a claimant was more likely to win an appeal when (1) he or she appeared at the hearing, (2) he or she was represented at the hearing, and (3) the employer was taxed at a higher rate. A claimant was less likely to win an appeal when (1) the employer had 20 or more employees, (2) the employer appeared at the hearing, (3) the employer was represented at the hearing, (4) the employer was in the manufacturing industry, (5) multiple issues were contested, and (6) the hearing was conducted by telephone.

Both employers and claimants were less likely to win appeals that they filed when there were multiple issues involved in the appeal and when the hearing was conducted by telephone instead of in person. These factors, however, had more of a negative effect on claimants than they did on employers. Claimants were only about half as likely to win appeals when multiple issues were involved, whereas employers were just a little more than three-fourths as likely to win, all else being equal. This difference was smaller for telephone hearings.[17]

It is important to note that when claimants bring appeals, legal representation for both the claimant and the employer affects the outcome of the appeal. In addition, unlike employer appeals, higher employer tax rates do affect the success rates of claimants when claimants file the appeals.

CASE STUDY OF LOWER-AUTHORITY APPEALS

Research Design

In order to supplement existing data on lower-authority appeals and to collect otherwise unreported qualitative data about the hearing process, the Advisory Council undertook a case study of appeals hearings that were held in eight states—California, Colorado, Illinois, Iowa, Maine, Maryland, Texas, and Virginia—over the summer of 1995.[18] An effort was made to select states that differed from one another with regard to a number of characteristics, including the volume of lower-authority appeals processed each year, the location of the state, whether the state was primarily rural or urban, and whether the state conducted the majority of its hearings by telephone or in person.

Researchers attended a total of 284 hearings[19] between May and August 1995 (approximately 35 hearings were attended in each of the 8 states).[20] Primary issues of research interest included the following: (1) the nature of the hearing process, including its complexity, the role of the administrative law judge, and the relative ability of claimant and employer to participate effectively; (2) the role of representation and its effect on appeal outcomes and the hearing process; and (3) issues of due process of law under the U.S. Constitution and the statutory "fair hearing" requirement.[21]

Description of Observed Appeals

Of the hearings observed, 70 percent were for appeals filed by the claimant. This percentage is similar to that of claimant appeals in the overall UI system. More than three-fourths of the hearings (77 percent) involved a separation issue.[22] Just over half of the hearings (52 percent) were conducted in person, and the remaining 48 percent were conducted with at least one person participating by phone.

Employers appealed less frequently than claimants (30 percent of the time); overall, however, 41 percent of the decisions were decided in the employer's favor and 42 percent were decided in the claimant's favor.[23]

Employers and claimants each won roughly 42 percent of the time when they appealed. For additional information on outcomes, see Table 9-4. A number of factors affected the hearing process, including participation by the parties and the presence of representation. These factors are explored in additional detail below.

Participation by the Parties

Lack of participation was noteworthy in the observed hearings.[24] In most states, appeals are automatically dismissed when neither side appears for the hearing. Even having excluded such cases, however, at least one side failed to appear in 37 percent of the separation hearings observed. The claimant failed to appear for the hearing 14 percent of the time. The employer failed to participate 23 percent of the time (see Table 9-5).[25]

As would be expected, participation in the hearing significantly affected the outcome of appeals for both claimant and employer. Of the separation hearings observed, claimants who participated achieved favorable outcomes 52 percent of the time, but those who did not participate won only 26 percent of the time. Similarly, employers who participated in hearings won 54 percent of the time, but those who did not participate won only 39 percent of the time.[26] Similarly, both parties also prevailed more frequently when the other side failed to appear.

Representation

Although the representation of employers and claimants at the hearings was observed less frequently than their failure to participate, representation also affected the observed lower-authority appeals.[27] It took various forms, including legal representation[28] and representation by nonattorneys, which includes so-called "third party" representation, usually in the form of a payroll service or UI claims management firm. *Legal* representation was quite infrequent, occurring in only 4 percent of cases.

Overall, claimants were represented in only 6 percent of the hearings in which they participated, although 92 percent of their representation was legal in nature. Employers, on the other hand, were represented in 28 percent of hearings they attended, usually by a payroll or claims management firm (83 percent of the cases in which they were represented). Thus, when representation was observed in this study, it was most frequently employer representation in the form of payroll services or UI claims management firms (see Table 9-6).

TABLE 9-4. Summary of Outcomes of Lower-Authority Appeals Hearings in Eight States, Summer 1995

Description of Hearing	Number of Cases Observed	Percentage of Cases Won by:	
		Claimant	Employer
Overall[a]	284	42	41
Appeal Initiated by:			
Claimant	183	42	58
Employer	72	58	42
Issue Appealed			
Separation	198	49	51
Nonseparation[b]	58	40	28
Appeal Conducted[c]			
In Person	42	52	48
Phone	99	52	48
Participation			
Both Parties Present	142	52	48
Claimant Present[d]	173	52	48
Claimant Not Present[d]	23	26	74
Employer Present[d]	155	46	54
Employer Not Present[d]	41	61	39
Representation of Claimants[c]			
Overall	12	33	67
Attorney	10	30	70
Representation of Employers			
Overall	31	55	45
Attorney	9	55	45

SOURCE: Gallagher and Ralph (1995).

[a] In 17 percent of the cases, decisions were either unavailable or in favor of the state.

[b] Decisions in 32 percent of nonseparation cases were either unavailable or in favor of the state.

[c] Includes only those separation hearings in which both parties participated.

[d] Participation in separation hearings only.

TABLE 9-5. Frequency and Effect of Parties' Participation in Separation Appeals Hearings in Eight States, Summer 1995

Party	Did Participate (percent)	Did Not Participate (percent)
Claimant		
Overall	86	14
Favorable Outcome	52	26
Employer		
Overall	77	23
Favorable Outcome	54	39

NOTE: The number of cases in which claimants did not participate and employers did not participate are additive, because there is no overlap between these cases. Thus, in 37 percent of the hearings, only one party participated.

SOURCE: Gallagher and Ralph (1995).

Effect on Outcomes

The lack of any statistically significant impact of representation on outcomes for employers is noteworthy.[29] Whether considering overall employer representation or representation by a third-party firm, employers were *not* statistically more likely to win cases in which they were represented.[30] Controlling for who participated in the hearing and for whether a separation or nonseparation issue was at stake, employers were as likely to win a case when they were represented by a payroll firm or claims management firm (they won 50 percent of the time) as when they were when unrepresented (they won 51 percent of the time in this situation). Overall, the results of the ACUC study suggest that the predominant form of representation observed had no significant effect on appeal outcomes.

Because the frequency of claimant representation was so low (14 out of 284 cases), no statistically significant effect of representation on outcomes is observable.[31] Similarly, because the absolute level of *legal* representation in the hearings observed was so low for both claimants and employers,[32] no generalizable findings with respect to the effect of legal representation on outcomes based on this study are possible.[33]

TABLE 9-6. Frequency and Effect of Parties' Representation at Appeals Hearings in Eight States, Summer 1995

Party	Represented (percent)	Not Represented (percent)
Claimant		
Overall	6	94
Effect on Process When:		
Documents Were Used	50	20
Witnesses Were Used	57	9
Objections Were Raised	64	7
Employer		
Overall	28	72
Represented by UI Firm	23	—
Represented by Other	4	—
Effect on Process When:		
Documents Were Used	N.A.	N.A.
Witnesses Were Used	94	37
Objections Were Raised	3	17

NOTE: Only statistically significant results are reported. N.A. indicates that the result was not statistically significant.

SOURCE: Gallagher and Ralph (1995).

Effect on Process

Although representation appeared to have no effect on *outcomes* in the cases observed, it did appear to affect the hearing *process*. When claimants were represented, they were far more likely to bring documents and witnesses to the hearing than when they were unrepresented. For example, unrepresented claimants brought witnesses to only 9 percent of hearings; represented claimants brought witnesses to 57 percent of hearings. Claimants who were represented were also more likely to register objections than were unrepresented claimants.[34]

Employers were also more likely to bring witnesses and to register objections when represented than when unrepresented. For example, unrepresented employers registered objections in only 3 percent of cases, whereas repre-

sented employers registered objections in 17 percent of cases.[35] Employers were not statistically more likely, however, to bring documents when they were represented. This result was expected, because employers routinely arrived at hearings with paperwork such as personnel and other records.

Hearings were longer when parties were represented than when they were unrepresented. The average hearing length when neither claimant or employer was represented was 29 minutes. The average hearing length when at least one side had representation increased to 39 minutes, a statistically significant difference. These results suggest that, in the hearings observed, represented parties asserted more rights than nonrepresented parties did, although the represented did not achieve more favorable results.

Telephone Hearings

The ACUC case study also examined the impact of conducting hearings by telephone compared to the impact of holding hearings with all participants attending in person. Each of the eight states in the case study conducts a portion of its hearings by telephone. The percentages of observed hearings in which at least one party participated by telephone varied among states, ranging from a high of 75 percent to a low of 12 percent. Overall, 48 percent of observed hearings were conducted to some extent by telephone.[36]

The criteria for conducting appeals hearings in person or by telephone varies by jurisdiction. Interstate hearings or other situations in which the employer and claimant are separated by a substantial geographical distance (generally 30 miles or more) are usually held by telephone in all of the surveyed states.

Two of the eight states sampled conduct telephone hearings by default. That is, the hearing would be by telephone unless at least one party requested an in-person hearing.[37] The other six states conduct hearings in person unless a formal request for a telephone hearing is made in advance. Policies vary by state regarding whether parties are informed in advance as to how the other party will be participating.

The nature and complexity of the case also play a role in determining how a hearing is conducted. Those that involve extensive documentation, hearings in which attorneys or a number of witnesses are scheduled to participate, and those for which the claimant was allegedly separated from employment for a violent offense are also generally conducted by telephone. All surveyed states intend to maintain if not expand the use of telephones for appeals hearings.

Advantages and Disadvantages

There are advantages and disadvantages to conducting hearings by telephone. It is easier to maintain the safety of all parties when direct physical confrontation is avoided. It is often logistically easier to participate if a party has the option to do so by telephone. In addition, outcomes may be less likely to be biased by how well a participant presents himself or herself physically. At the same time, however, the use of telephone hearings may cause difficulties or even inequities, as discussed here.

When a hearing is scheduled to take place by telephone, a substantial amount of advance preparation must be undertaken to assure that all parties have received copies of any documentation that will be referred to during the hearing. This may pose difficulties for parties going through the process for the first time.

Nonverbal cues, often an integral part of an in-person hearing, are not available to the referee to assess credibility. It is virtually impossible for a referee to verify whether or not a witness who is participating by telephone has been sequestered. Parties that are not comfortable using the telephone may be at a disadvantage. Finally, the hearing may be perceived as being less formal and may not be taken as seriously if participants are not compelled to show up and confront the other participants face to face.

Effect on Process

Employers tended to participate in hearings by telephone more often than claimants did.[38] It was found that the longest average hearings (50 minutes) occurred when both parties participated in person. Hearings in which the claimant participated in person and the employer participated by telephone had the shortest average duration (28 minutes).

There is evidence that parties participating in in-person hearings are more likely to bring documentation, and there is also some evidence that parties participating by telephone may be less likely to raise questions about the hearing process. Claimants were twice as likely (33 percent of the time) to bring documentation to be used as evidence when both parties participated in person than they were when both parties participated by telephone. Similarly, employers were more likely to bring documentation when participating in person than by telephone. In separation cases (in which it is more likely that both sides participate), it was found that claimants who participated by telephone tended to raise fewer questions about the process than did claimants who participated in person.

The results of a subjective evaluation of how prepared each party was for an observed hearing are also consistent with these findings. On a five-point scale, which took into consideration factors such as the use of supporting documentation and the use of relevant witnesses, both claimants and employers received their highest scores when they both participated in person.

One additional consideration was evident in observing telephone hearings. Nearly 20 percent of hearings that involved the telephone were characterized as having various technical difficulties. This was defined as either a poor-quality connection, or as situations where the referee had trouble establishing or maintaining telephone contact among all parties. Procedures vary by state as to how long a referee will wait for an in-coming call from a participant before starting proceedings. They also vary as to how many times the referee will attempt to reach a party if the initial attempt is unsuccessful.

Overall, therefore, as with the presence of representation, the use of telephone participation did have some clear impact on the nature of the individual hearing process itself, although there is no evidence that it affected the actual outcomes of the observed lower-authority appeals hearings.

NOTES

1. Appendix B contains a detailed discussion of the specific variables used in the analysis and an explanation of their expected effects on the dependent variables.

2. Pennsylvania was omitted from the regression equations as the reference state.

3. This is presumably because more individuals are being denied benefits at an early stage in the application process.

4. This result was not expected. See Appendix B for a discussion of the expected effects of the independent variables on denial and appeal rates.

5. This suggests that the variables available for this analysis could not adequately explain the reasons for variations in denial rates across states. Other variables that may explain some variation, but that could not be quantified for use in the regression analyses include the following: actual definitions of nonmonetary eligibility conditions, the ability of states to detect and investigate nonmonetary eligibility issues, and state administrative practices.

6. Sixty-six percent of the variation in claimant success rates was explained when the state dummy variables were included, whereas 35 percent of variation in employer success rates was explained when the state dummy variables were included.

7. Employees are also required to pay payroll taxes in four states. See Advisory Council on Unemployment Compensation (1995, 51) for more information.

8. In addition, the tax schedule in effect in a given state often varies depending on state trust fund solvency and economic conditions.

9. See Chapter 6 of Advisory Council on Unemployment Compensation (1995) and Chapter 7 of this report for additional information on experience rating and a detailed discussion of the types of experience rating.

10. For example, some or all of the ultimate burden of UI taxes could be shifted from employers to workers in the form of lower wages or benefits, or to consumers in the form of higher prices.

11. Such involvement could include a firm's scrutinizing former employees' UI claims, reviewing charges to the firm's UI account, and participating in the appeals process.

12. The Advisory Council on Unemployment Compensation thanks Council member William D. Grossenbacher (Administrator, Texas Employment Commission) and Council alternate Carol Skornicka (Secretary, Wisconsin Department of Industry, Labor, and Human Relations) for providing these data.

13. When compared to other states, Texas has a higher-than-average rate of denial per initial claim (see Table 8-4 in Chapter 8). This may explain, in part, why claimants have such high success rates in winning the appeals they bring in Texas.

14. Much of the information provided in this section is taken from Kritzer (1995).

15. Representation included only attorneys (not other agents) in these data.

16. The Texas data were not used because the state's appeals are very different from the national average; in Texas, employers comprised a large proportion of all appellants, and claimants won a large percentage of all appeals. In addition, information on representation was not available.

17. Claimants were only 0.68 times as likely to win these appeals, whereas employers were 0.71 times as likely to win, all else being equal.

18. The Advisory Council expresses its thanks to all of the individuals who work in the appeals offices of the eight states that participated in the case study. In particular, this project would not have been possible without the assistance of the following individuals: Mike DiSanto, Ron Kammann, and Tim McArdle in California; Betty Graham, Lyle Seebaum, and Dennis Zerlan in Colorado; Victor Napolitano in Illinois; Dan Anderson and Steve Beasley in Iowa; Allan Toubman in Maine; Marvin Pazornick, Henry Rutledge, and Louis Steinwedel in Maryland; Gordon Doig and Lee Hartman in Texas; and David Breme and David Latham in Virginia.

19. Most of the hearings (90 percent) were observed live; the remaining 10 percent were selected at random from hearings tape recorded during roughly the same time period.

20. Because of the relatively small number of hearings observed in each state, the capacity to find statistically significant differences was generally limited. Unless otherwise noted, this section only reports results that are statistically significant at the 95 percent confidence level.

21. For additional detail on the findings and conclusions of this study, see Gallagher and Ralph (1995).

22. See Chapter 8 of Advisory Council on Unemployment Compensation (1995) for additional information on nonmonetary eligibility, including separation issues.

23. In the remaining 17 percent of the cases, the decision was either unavailable, or it was more favorable to the state UI agency than to the claimant or employer. These decisions were most often issued in cases where the state found the claimant ineligible or disqualified after a nonseparation hearing to which the employer was not a party.

24. Analysis of participation in appeals hearings was limited to those hearings involving a separation issue, in order to avoid underestimating employer participation. Employers generally have less incentive to attend nonseparation hearings, both because the state often appears as a party and because a relatively short period of disqualification or ineligibility is often at stake. Further, the state does not always consider the employer a party to a nonseparation hearing and may therefore not notify the employer about the hearing.

25. Because the observations in the study were based solely on hearings actually held, no statements can be made about the number of times both sides failed to appear. Under such circumstances, most states would dismiss the appeal without a hearing.

26. This result was statistically significant at the 90 percent confidence level.

27. Employers were considered to be "represented" when either an outside agent or in-house legal counsel attended the hearing for purposes of presenting the employer's case and conducting questioning and cross-examination. Human resource professionals who may have acted in part as representatives were not treated as "representation."

28. "Legal" representation was defined in the ACUC study to include attorneys, paralegals, law students, and law clerks. "Nonlegal" representation was a catch-all term for all other categories, including payroll firms for employers, or union representatives, friends, or family for claimants.

29. Analysis of the impact of representation on appeals hearing outcomes was limited to separation hearings in which both parties participated in order to exclude the independent effect of nonparticipation on outcomes.

30. In observed appeals, employers actually won more frequently when they were represented (17 out of 31 cases) than when they were unrepresented (48 out of 99 cases). As noted, however, these results were not statistically significant.

31. Of separation hearings where both parties participated, claimants *actually* lost more frequently (8 out of 12) when they were represented than when they were unrepresented (58 out of 119). As noted, however, these results were not statistically significant.

32. Overall, legal representation was observed in only 19 of 284 cases.

33. In other words, when looking at the overall UI appeals system, representation may have a measurable impact that could not be discerned through observation of the small sample of cases at issue here.

34. Unrepresented claimants registered objections in only 7 percent of cases, whereas represented claimants registered objections 64 percent of the time. Claimants who were unrepresented also brought documents to the hearing only 20 percent of the time, but represented claimants brought documents 50 percent of the time.

35. Employers also brought witnesses in 37 percent of cases when unrepresented, and 94 percent of cases when represented. The greater prevalence of witnesses among employers may be, in part, due to definitional issues in the case study, as claimants who were repre-

sented were not considered to be acting primarily as witnesses, in contrast to any individuals who gave testimony for a represented employer, who were considered witnesses.

36. In addition to hearings in which both parties participated by telephone, these percentages also include hearings in which one party participated in person at the local office in the presence of the referee, while the other party participated by telephone (hereafter referred to as mixed hearings).

37. If this request was made, a hearing would then be scheduled at a local office most convenient for the party who did not request the in-person hearing.

38. When both claimant and employer attended, hearings were classified on the basis of the manner in which the primary spokesperson for either the claimant or the employer participated. Both parties participated in a total of 105 hearings.

Appendix A / Technical Issues in the Evolution of Unemployment Insurance

THIS APPENDIX CONTAINS additional technical information regarding the quantitative and statistical methods that were used in the following three analyses discussed in Chapter 4: (1) the analysis of eligibility and benefit levels through the Survey of Income and Program Participation (SIPP); (2) the analysis of state cost-shifting between Unemployment Insurance and other social programs; and (3) the analysis of interstate tax competition.

SIPP ANALYSIS

This section describes in detail how the eligibility and benefit simulations discussed in Chapter 4 were performed, using the SIPP. The SIPP analyses were performed by using a matched combination of the 1990 Full Panel Research File, Waves 1 through 8 Core Data Files, and the Wave 2 Personal History Topical Module. The Full Panel Research File provides a window of two and one-half years (between 1989 and 1992) for identifying unemployment spells. The file provides monthly information for that time period on individuals' demographic characteristics, employment and earnings history, school attendance, and source and amount of income received (including Unemployment Insurance benefits). The Core Data Files provide historical information on labor force activity, earnings and employment history, reason for separating from employment, and the source and amount of income from other programs. The Wave 2 Personal History Topical Module was used to identify the starting month and year of the most recent job.

Only individuals who experienced unemployment at some point during their participation in the full research panel were included in the database developed for these analyses.[1] These individuals could have been unem-

ployed for the entire panel. Individuals who reported that they were not looking for work were not considered to be unemployed; rather, they were considered to be out of the labor force.

Unemployment spells were *included* in the analyses only when there was sufficient information available on base period earnings and employment history to allow the simulation of UI eligibility. Some individuals with partially incomplete information in their base period, however, were included in the sample, if the missing information could be interpolated.

Individuals were *excluded* from the analysis on the basis of the base period definition in their state. When the base period was defined as the first four of the last five completed calendar quarters, unemployment spells that occurred in the first 15 months of the Full Panel Research File were excluded. When the base period was defined as the last four completed calendar quarters, spells that occurred in the first 12 months of the Full Panel Research File were excluded. In addition, individuals who identified themselves as being employed but who provided no corresponding information on earnings or employment in the base period were excluded. As a result, more than half of the unemployment spells in the file were not considered for the purposes of the SIPP analysis in Chapter 4 because of missing or unavailable data. The final number of unweighted unemployment spells used in the analyses was 8,158 (32.6 million when weighted).

For ease of analysis and comparison, all unemployment spells were adjusted slightly so that they could be treated as 1990 spells. The portion of each spell that occurred outside of 1990 was converted by inflating (or deflating) the earnings and income data to 1990 dollars by the Employment Cost Index (ECI) for private industry, which is published in the *Economic Report of the President* (Council of Economic Advisors 1995).

In order to examine the effects of changes in monetary eligibility since 1978, all spells were also converted to 1978 spells—a more complicated conversion. Ideally, the deflation of 1990 earnings to 1978 should account for the significant changes in the distribution of earnings that occurred during that time period. Detailed earnings information was available from the Bureau of Labor Statistics in unpublished tables for 1979 (the earliest year for which these data were available) and 1990. These tables were then used to create 10 separate gender-specific indices for deflating wages from 1990 to 1979. The ECI was used to deflate earnings and income from 1979 to 1978.[2]

A series of calculations was performed to determine whether an individual would have been monetarily eligible for Unemployment Insurance in either 1978 or 1990. Detailed information from each state's law, as pub-

lished in U.S. Department of Labor (1995a), was used as the basis for simulating program eligibility. Several variables were necessary for each unemployment spell before monetary eligibility could be determined. These included the definition of the base period, base period earnings, high earnings, weeks worked, the number of quarters during which wages were earned, the number of hours worked per week, and the average hourly wage rate.[3] Based on the state of residence, the simulations calculate UI program eligibility, weekly benefit amounts, and potential duration of benefits. The eligibility determination reflects the individual state laws, including provisions for dependent allowances and deductions for other income received during the period of unemployment (for example, Worker's Compensation and Social Security).

These simulations were used in the discussions of monetary eligibility and replacement rates in Chapter 4. The monetary eligibility calculations, which were presented in Table 4-1, include individuals who report receiving UI in a given month, but were simulated as ineligible. These individuals represent approximately 3 percent of the UI spells examined. This discrepancy in eligibility may be a result of incorrect underreporting of earnings in the SIPP. The weekly benefit amounts that were used to calculate replacement rates were the simulated amounts rather than the amounts that individuals reported in the SIPP. (These weekly benefit amounts are not reduced when other income is received.) The replacement rates reported in Table 4-5 were calculated by dividing the simulated weekly benefit amount by the individuals' average weekly earnings during the base period.

Two problems with the SIPP data should be noted. First, the state law used for determining eligibility was based on the individuals' state of residence, although UI is based on the state in which the individual worked. This information, however, was not available in the SIPP. As a result, calculations were incorrect for individuals who work in a state other than their state of residence. Second, the SIPP groups some "small" states together. In these cases, simulations were conducted using the UI laws of the state in the group with the most liberal monetary eligibility laws.[4]

COST-SHIFTING ANALYSIS

Regression analysis was conducted to test the hypothesis that "cost-shifting" behavior by the states has contributed to the decline in UI recipiency among the unemployed since the late 1970s. The analysis focused primarily on the effects of the federal matching rate for the Aid to Families with Dependent

Children (AFDC) program and federal per capita Food Stamps expenditures on UI recipiency. In theory, federal subsidies for income support programs such as AFDC and Food Stamps may create incentives for states to shift unemployed low-income workers from UI benefits, which are fully financed by the states, to federally subsidized means-tested programs. Such a shift could be achieved through increases in monetary eligibility requirements or through changes in nonmonetary eligibility requirements.

Dependent Variable

The IU/TU, the ratio of the number of UI claimants to the total number of unemployed, was used as the dependent variable. The means and standard deviations of all variables used in the analysis are reported in Table A-1.

AFDC and Food Stamp Variables

The econometric model that was used to examine the effects of cost-shifting included measures of federal subsidies in means-tested programs as well as a number of economic and other external variables that might be expected to affect a state's IU/TU. Three measures were used to evaluate the impact of AFDC and Food Stamps benefit payments on UI recipiency: the federal AFDC matching rate, federal Food Stamp expenditures per capita, and federal AFDC expenditures per capita. Larger federal subsidies would be expected to result in lower UI recipiency rates.

The first two variables, the federal AFDC matching rate and Food Stamp expenditures per capita, describe the rate and level of federal contributions to the programs. The third, federal AFDC expenditures per capita, captures a combination of the federal matching rate, the number of AFDC recipients, and the level of benefit generosity in the state. As a result, the effect of federal AFDC expenditures per capita on UI recipiency cannot be attributed solely to federal subsidization. This variable is included in order to determine if states with more generous AFDC programs substitute these programs for UI. All three variables were lagged one year to allow for the likely delay between federal action and responses by the states.

UI Policy Variables

Five variables that are generally used in recipiency regressions were included in the model. They are as follows: (1) the employer tax rate, measured as

TABLE A-1. Means and Standard Deviations of Variables from Regression, 1979-1990

Variables	Levels		First Differences	
	Mean	Standard Deviation	Mean	Standard Deviation
IU/TU Ratio	33.69	9.78	–0.16	5.08
Federal AFDC Subsidy Rate (lagged)	59.90	8.54	0.12	2.16
Food Stamps Expenditures per Capita (lagged)	79.57	37.02	1.02	9.97
Federal AFDC Expenditures per Capita (lagged)	92.83	55.26	–2.98	8.21
Employer UI Tax Rate	2.45	0.98	–0.06	0.48
State Taxable Wage Base over Federal Level	1,913.72	2,717.75	166.41	594.75
Percent of Labor Force Unionized	0.17	0.07	0.00	0.02
Required Base Period Earnings for Minimum Benefits	1,584.05	732.37	16.69	320.38
Change in Total Unemployment Rate	–0.01	1.27	0.10	1.67
Denial Rate per Initial Claim	0.22	0.14	0.00	0.05
Percent of Employment Covered by UI	0.99	0.08	0.00	0.02
Benefit Amount/Wages	0.37	0.05	0.00	0.02
IU/TU of Contiguous States	0.33	0.07	0.00	0.04
IU/TU of Nearby States	0.34	0.07	0.00	0.03
IU/TU of the Balance of States	0.35	0.04	0.00	0.03
Per Capita Income	22,641.67	3,754.66	222.99	787.83

SOURCE: ACUC calculations based on data discussed in Appendix A.

the ratio of total employer taxes paid divided by taxable wages; (2) the state taxable wage base, measured as the difference between the state taxable wage base and the required federal wage base; (3) base period earnings required for minimum benefits; (4) the benefit denial rate; and (5) UI benefit generosity, measured as the ratio of the average weekly benefit to average weekly wages.[5]

Labor Force Variables

Three variables were used to control for variation in workplace and economic conditions: (1) the percentage of the workforce that is unionized, (2) the percentage of the workforce that is in UI-covered employment, and (3) the change in the unemployment rate between the current and the previous year.

Interstate Competition Variables

Results reported in the next major section, "Interstate Tax Competition Analysis," illustrate the influence of interstate competition on employer tax rates. In response to the findings on interstate competition, three variables representing UI recipiency in other states were included in the model with the expectation that they would control for the effects of interstate competition, as reflected in recipiency. As detailed in the next major section, states were divided into two groups: "contiguous states" (those sharing a border with the observed state) and states from the "balance of the country." For each state, the mean IU/TU was calculated for each group of states and included as independent variables in the model.

Data Sources

Data for the cost-shifting analysis were obtained from a variety of sources. Information on AFDC and Food Stamp expenditures was obtained from the Economics and Statistics Administration of the U.S. Department of Commerce. AFDC matching rates are contained in the various editions of *The Green Book*, produced by the Ways and Means Committee of the U.S. House of Representatives. U.S. Department of Labor (1995d) provided data on employer UI tax rates, the state taxable wage base, UI benefit levels, UI coverage and recipiency, and average wages. State taxable wage base information was obtained from the Council of State Governments. Unemployment and population data were provided by the Bureau of Labor Statistics. Unionization rates

were drawn from two papers based on Current Population Survey data: Kokkelenberg and Sockell (1985) and Curme et al. (1990).

Data and Model Specifications

The cost-shifting analysis used annual state data from 1978 to 1990. These years were selected on the basis of considerations related to the availability of data. Only data for the 48 contiguous states were used in order to allow the inclusion of the interstate competition variables. The District of Columbia was also excluded because of a lack of data on a number of measures.

The model was estimated using both levels data (using a fixed effects estimator) and first differences. As can be seen in the regression results presented in Table A-2, some of the regression coefficients vary between the two specifications. The analysis reported in Chapter 4 is based on the first differences specification. This specification is used because its underlying assumptions are less restrictive than those of the fixed effects model. If, however, the fixed effects model were used, the estimated effect of Food Stamp spending would only be about 58 percent of the effects reported for the first differences model.

Regression Results

The regression results shown in Table A-2 indicate that decreases in UI recipiency follow increases in the federal AFDC subsidy rate and per capita Food Stamp expenditures. According to the first differences results, a state's IU/TU ratio would be expected to fall by 0.48 percentage points after a $10 increase in per capita Food Stamp expenditures. Similarly, a 1.00 percentage point increase in the federal AFDC matching rate would be followed by a decrease in the IU/TU ratio of 0.14. Per capita federal AFDC benefit expenditures are not significant in explaining variation in UI benefit recipiency.

The first differences regression model also suggests that additional variables are significant predictors of UI recipiency. Decreases in recipiency are associated with the following: increases in the base period earnings requirement, increases in the change in unemployment rate, increases in the benefit denial rate, decreases in the ratio of average weekly UI benefits to average weekly wages, and decreases in the IU/TU of contiguous states.

TABLE A-2. Generalized Least-Squares Regression Results

Explanatory Variables	Levels	First Differences
Federal AFDC Subsidy Rate (lagged)	–0.060 (0.26)	–0.14 (0.03)
Food Stamps Expenditures per Capita (lagged)	–0.035 (0.01)	–0.066 (0.00)
Federal AFDC Expenditures per Capita (lagged)	0.015 (0.12)	0.0069 (0.72)
Employer UI Tax Rate	–0.26 (0.45)	–0.41 (0.21)
State Taxable Wage Base over Federal Level	0.000019 (0.91)	–0.00042 (0.08)
Percent of Labor Force Unionized	12.69 (0.08)	–6.7 (0.32)
Required Base Period Earnings for Minimum Benefits	–0.0013 (0.00)	–0.0014 (0.00)
Change in Total Unemployment Rate	–0.21 (0.30)	–1.13 (0.00)
Denial Rate per Initial Claim	–9.46 (0.00)	–9.92 (0.00)
Percent of Employment Covered by UI	–0.47 (0.94)	–11.33 (0.09)
Benefit Amount/Wages	39.34 (0.00)	68.01 (0.00)
IU/TU of Contiguous States	51.03 (0.00)	37.17 (0.00)
IU/TU of Nearby States	5.92 (0.39)	12.53 (0.10)
IU/TU of Balance of States	1.59 (0.91)	23.21 (0.15)
Per Capita Income	0.00028 (0.07)	0.00046 (0.06)
R^2	.45	.36

NOTE: Significance levels are reported in parentheses.

SOURCE: ACUC calculations based on data discussed in Appendix A.

National Effects

Given that the first differences estimator is likely to control for unmeasured heterogeneity better than a levels estimator is, the regression coefficients produced by the first differences analysis were used to simulate the effects on the IU/TU of changes in Food Stamps spending and the federal AFDC matching rate on the IU/TU. The lagged changes in the annual national mean for these two variables were multiplied by the corresponding regression coefficients to calculate the predicted change in the IU/TU. The mean values of these variables for 1972-1993 and their effects on the IU/TU are reported in Table A-3, along with means for the IU/TU.[6] This table indicates that the AFDC matching rate has varied little over time. Consequently, it cannot explain variation in the IU/TU.

Figure 4-4 (in Chapter 4) uses these calculations to compare the actual IU/TU to the IU/TU that would have occurred without cost-shifting from UI to Food Stamps. According to these calculations, the IU/TU in 1993 would have been 0.04 percentage points higher that the actual IU/TU of 0.32 if cost-shifting from UI to Food Stamps had not occurred. These results suggest that cost-shifting from UI to Food Stamps accounts for almost 64 percent of the 0.12 percentage point decline in the IU/TU between 1971 and 1993.[7]

INTERSTATE TAX COMPETITION ANALYSIS

The existence and potential impact of interstate competition in the UI system discussed in Chapter 4 was examined through regression analysis. In particular, the impact that tax rates in other states have on the tax rate of any given individual state was analyzed, taking into account several factors including the following: the proximity of the other states, whether their prior tax rates were higher or lower than the prior tax rate in the state being considered, the population of the other states, and the years being examined.

Dependent Variable

The dependent variable used in all regressions for the interstate tax competition analysis was the measure of UI taxes as a percentage of total wages in a given state. Tax rate data are routinely reported by the U.S. Department of Labor, and are available by state from 1938 to 1993.

TABLE A-3. Annual Means of Federal AFDC Subsidy Rates and Food Stamp Benefit Expenditures and Effects of Changes on UI Recipiency (IU/TU)

		Effect on IU/TU					
	IU/TU	AFDC Subsidy Rate			Food Stamp Benefit Expenditures		
Year	Mean	Mean	Annual Change	Cumulative Change	Mean	Annual Change	Cumulative Change
1972	0.38	58.30	–0.02	–0.02	44.92	–0.86	–0.86
1973	0.37	58.30	0.03	0.01	48.00	–0.29	–1.16
1974	0.44	57.29	0.00	0.01	65.75	–0.20	–1.36
1975	0.50	57.29	0.14	0.15	80.24	–1.17	–2.53
1976	0.40	56.06	0.00	0.15	75.03	–0.96	–3.49
1977	0.38	56.32	0.17	0.32	67.43	0.34	–3.14
1978	0.38	56.24	–0.04	0.28	64.92	0.50	–2.64
1979	0.40	56.33	0.01	0.30	78.80	0.17	–2.48
1980	0.44	56.50	–0.01	0.28	85.84	–0.92	–3.39
1981	0.37	56.68	–0.02	0.26	96.22	–0.46	–3.86
1982	0.38	56.64	–0.03	0.23	88.31	–0.68	–4.54
1983	0.32	57.00	0.01	0.24	95.46	0.52	–4.02
1984	0.29	56.76	–0.05	0.19	88.19	–0.47	–4.49
1985	0.31	56.82	0.03	0.22	84.45	0.48	–4.01
1986	0.32	57.31	–0.01	0.21	82.45	0.25	–3.76
1987	0.31	57.61	–0.07	0.15	79.20	0.13	–3.63
1988	0.31	58.07	–0.04	0.10	79.92	0.21	–3.42
1989	0.33	57.90	–0.06	0.04	80.94	–0.05	–3.47
1990	0.37	58.44	0.02	0.06	88.79	–0.07	–3.53
1991	0.39	57.43	–0.08	–0.01	102.34	–0.52	–4.05
1992	0.35	57.49	0.14	0.13	114.08	–0.89	–4.94
1993	0.32	57.31	–0.01	0.12	114.40	–0.77	–5.72

NOTE: The effect on IU/TU is calculated as the lagged change in the specified variable multiplied by the regression coefficient for that variable.

SOURCE: ACUC calculations based on data discussed in Appendix A.

Interstate Tax Variables

The econometric model that was examined in testing for the effects of interstate competition included interstate tax variables, as well as a number of economic and other external variables that might be expected to affect the UI tax rate of a given state.

In calculating interstate tax variables, two geographic categories of states were created for each observed state. Those states that share a border with the observed state were designated "contiguous" states. States have, on average, slightly more than 4 contiguous states, with the number ranging from 0 to 8. Those states that do not share a border with the observed state were designated "balance of the country" states. States had, on average, 45 balance-of-the-country states, with the number ranging from 41 to 49.

A database was created in which the tax rates of each state's contiguous and balance-of-the-country states were included for each state-year observation. Various interstate tax measures were then created using these geographic categories (for example, two unweighted average tax rates, one for all states contiguous to the observed state and one for all balance-of-the-country states).[8]

These variables were then lagged for different numbers of years, reflecting the hypothesis that if states' tax rates respond in some way to the tax rates of other states, the impact would be observed in subsequent years. Preliminary regressions indicated that one-year lags maximized the model's explanatory power. Consequently, all subsequent analysis focused on one-year lags.

In order to test whether an observed state responded differently to a given category of other states when the tax rates were lower, not higher, than that of the observed state, each of the three categories was further divided into two categories. Thus, a total of four interstate tax variables was examined in each of the regressions reported in Chapter 4. For both of the geographic categories, there are two variables, indicated by "A" or "B." For example, with regard to the contiguous state variables, if the lagged average contiguous tax rate (that is, the lagged tax rate of all contiguous states) was *higher than or equal to* the lagged tax rate of the observed state, then the "A" value is the value of the lagged average contiguous tax rate, and the "B" value is zero. If the lagged average contiguous tax rate is *lower than* the lagged tax rate of the observed state, then the "A" value is zero and the "B" value is the value of the lagged average contiguous tax rate. Similar calculations were made for the balance-of-the-country states. In this way, the

potentially different responses of state tax rates when the tax rates of other states are lower, rather than higher, were separated and could be captured in the regression.

Economic and Other Variables

Seven other variables were included in the regressions on interstate competition. These variables would be expected to have a direct effect on the setting of a state's tax rate and, therefore, need to be controlled in the regression. The total unemployment rate and the change in the unemployment rate were included because of their expected direct effect on the level of UI tax rates, since tax rates would be expected to be higher if the unemployment rate either (1) is at a relatively high level or (2) is decreasing (given countercyclical funding). The reserve ratio, a measure of UI trust fund solvency, was included because it would be expected that tax rates would be higher when the reserve ratio has been lower. Analysis indicated that a three-year lag of the reserve ratio had the greatest predictive power; this measure of the reserve ratio was used.

In order to control for the effect of politics at the state level, a measure of the number of state political institutions (that is, the governorship and the two bodies of the state legislature) controlled by the Democrats was also included. A measure of state tax capacity was included to control for the level of states' general tax bases. Unionization rates were included because they are often found to have an effect on a number of UI-related measures. Preliminary regressions included the ratio of the observed state's population to the average population of all of its contiguous states. This was done in order to test the hypothesis that larger states are more able to resist competitive pressures on tax rates.[9]

Data Sources

These data were derived from a variety of sources. The total unemployment rate variables and population ratios were drawn from Bureau of Labor Statistics data. The reserve ratio was drawn from Unemployment Insurance Service data. The state political variable was derived from Conference of State Legislatures data. Unionization rates were obtained from two papers based on Current Population Survey data, Kokkelenberg and Sockell (1985) and Curme et al. (1990).

Regression Results

Regression analysis was performed on the data for the years 1977 to 1990 in order to determine the responsiveness of state tax rates to tax rates in other states.[10] Analysis was limited to those years because of data restrictions. In particular, state-level unemployment rates are not available for all states before 1976 (and, as a result, unemployment rate change is not available before 1977), and unionization rates by state are not available after 1990. Because both of these variables are highly significant in predicting tax rates, the decision was made to limit the analysis to those 14 years. Observations for Alaska and Hawaii were excluded from the analysis because they have no contiguous states.

The results suggest that, all else being equal, state tax rates are affected by the previous year's tax rate levels in other states, and that the impact is statistically significant. The R^2 of the regression that does not include the interstate tax rate variables is 0.34. When the interstate variables are included, the R^2 increases to 0.57.

Further, the results indicate that an average *individual* contiguous state has a larger impact than an average individual balance-of-the-country state. In addition, the evidence suggests that state tax rates respond more to the tax rates in states where tax rates are lower than they are in the observed state.

For example, the regression results reported in Table A-4 indicate that, if the lagged average of all contiguous states is *lower* than the lagged tax rate of the observed state, then a 1.00 percent decline in the lagged average tax rate of all contiguous states would result, on average, in a 0.33 percent decline in the tax rate of the observed state. The comparable result for balance-of-the-country states is 0.44. In cases in which the average interstate tax rate is higher than in the observed state, the overall response of the observed state to changes in the interstate averages is significantly less (between 54 and 80 percent of the response that occurs when the interstate averages are lower than the rate in the observed state).[11]

The results discussed above can also be interpreted to indicate the average effect of a *single* state located in the contiguous or balance-of-the-country categories. The discussion in this paragraph refers to situations in which the relevant average tax rate is lower than the tax rate in the observed state. Since there are, on average, 4.2 contiguous states per state, a 1.00 percent decline in the lagged average tax rate of any one of those contiguous states would result in a 0.08 percent decline in the tax rate of the observed state. With an average of 44.76 balance-of-the-country states, a 1.00 percent

TABLE A-4. Interstate Competition Regression Results

Explanatory Variables	Does Not Include Interstate Variables, 1977-1990	Includes Interstate Variables, 1977-1990	Includes Interstate Variables, 1977-1986	Includes Interstate Variables, 1987-1990
Constant	0.483 (0.00)	–0.214 (0.07)	0.364 (0.06)	–0.579 (0.01)
State Government	–0.003 (0.87)	0.015 (0.17)	0.019 (0.17)	–0.005 (0.82)
Tax Capacity	–0.001 (0.10)	0.0001 (0.86)	–0.0006 (0.42)	0.002 (0.21)
Unionization	2.330 (0.00)	1.202 (0.00)	1.014 (0.00)	1.196 (0.00)
Population Ratio	—	–0.021 (0.00)	–0.024 (0.00)	–0.004 (0.63)
Lagged Reserve Ratio	–0.073 (0.00)	0.027 (0.02)	0.014 (0.29)	0.050 (0.02)
Unemployment Rate (β_1)	7.238 (0.00)	4.208 (0.00)	3.555 (0.00)	1.773 (0.13)
Change in Unemployment Rate (β_2)	–10.947 (0.00)	–6.375 (0.00)	–7.453 (0.00)	–4.298 (0.10)
"A" Contiguous Tax_{-1} (β_3)	—	0.086 (0.04)	0.094 (0.07)	0.020 (0.75)
"A" Nearby Tax_{-1} (β_4)	—	0.215 (0.00)	0.142 (0.04)	0.234 (0.00)
"A" Balance Tax_{-1} (β_5)	—	0.131 (0.08)	–0.102 (0.33)	0.372 (0.02)
"B" Contiguous Tax_{-1} (β_6)	—	0.319 (0.00)	0.301 (0.00)	0.382 (0.00)
"B" Nearby Tax_{-1} (β_7)	—	0.360 (0.00)	0.297 (0.00)	0.318 (0.00)
"B" Balance Tax_{-1} (β_8)	—	0.329 (0.00)	0.078 (0.50)	0.700 (0.01)
R^2	.37	.71	.68	.79
N	672	672	480	192

NOTE: Significance levels are reported in parentheses.

SOURCE: ACUC calculations based on data discussed in Appendix A.

decline in the lagged average tax rate of any state located in the balance of the country would result in a 0.01 percent decline in the observed state's tax rate. Thus, among categories of states that have a lower tax rate than that in an observed state, average individual contiguous states have an impact that is eight times larger than the impact of individual balance-of-the-country states.

Regressions were also run using alternative specifications of interstate tax variables. In particular, the tax rates of the most populous one or two contiguous states were included individually, with the contiguous variables then comprised of the mean tax rate of only the remaining contiguous states. The results of these regressions were consistent with the results discussed above. Further, they suggest that the effects of contiguous averages are largely a function of the tax rates of the two most populous contiguous states. The coefficients of tax rate variables for these states tend to be larger than the coefficients of the variables that then contain only the remaining contiguous states.

In addition, attention was also given to the effect of using weighted means for contiguous and balance-of-the-country variables, rather than unweighted means. These specifications yielded results that were similar to the unweighted regressions.

NOTES

1. Individuals from the SIPP with more than one spell of unemployment appear multiple times in the database.

2. It was expected that the significant change in the earnings distribution between 1978 and 1990 might affect the monetary eligibility calculations. For that reason, 10 deflators for each gender group were calculated. An alternative 1978 model was also run to determine the impact of using a simple deflator between 1990 and 1978. The results indicated only slight differences in the calculations of monetary eligible (63.3 percent versus 63.6 percent overall). It is possible that this difference is understated because of the small number of individuals (22) in the SIPP whose hourly earnings data were affected.

3. The base period definition for 1990 was used in the 1978 simulations so that only changes in the earnings requirements would generate differences in eligibility and benefit amounts.

4. Alaska, Idaho, Montana, and Wyoming were grouped together (Alaska was used); Maine and Vermont were grouped together (Maine was used); and Iowa, North Dakota, and South Dakota were grouped together (South Dakota was used).

5. See Chapter 5 of this report, which reports evidence that increases in the state tax rate or taxable wage base are associated with increases the IU/TU, and that the base period earning required for minimum benefits and the benefit denial rate are associated with decreases in the IU/TU.

6. The annual means are weighted by states' total unemployment in order to account for changes in the distribution of unemployment over time. However, the state-level unemployment data needed to produce the weighted averages were not available for the years 1970-1975. Instead, the weights for 1976 were applied to these years.

7. Alternatively, calculations based on unweighted means produce a cumulative change in the IU/TU of 0.036 percentage points, which accounts for 69 percent of the decline in the IU/TU.

8. Regressions using averages weighted by state population were also examined. Both weighted and unweighted averages were found to have similar effects in the regressions. Therefore, a decision was made to use unweighted tax rates.

9. Although the results provided evidence in support of this hypothesis, the variable was ultimately dropped from the analysis. This was done because the Hausman specification test indicated that a fixed effect estimator, rather than a random effects estimator, should be used. The state population variable proved to be too highly correlated with the state fixed effects, and, as a result, it was necessary to drop the population variable.

10. The results reported here are based on a fixed effects, generalized least squares model.

11. This was determined by dividing the regression coefficients of average interstate tax rates that are higher than the rate in the observed state by the coefficients for the averages when they are lower than the rate in the observed state.

Appendix B/ Technical Issues in Analyzing Denials and Appeals

THIS APPENDIX CONTAINS technical information about the statistical methods used in the "Analysis of Denials and Appeals," Chapter 9.

DENIAL RATE, APPEAL RATE, AND APPEAL OUTCOME ANALYSES

Factors Influencing Denial Rates, Appeal Rates, and Appeal Outcomes

Factors that may influence denial and appeal rates were considered in the statistical analysis presented in Chapter 9. These factors are grouped in four categories: policy variables, benefit variables, labor force characteristics, and state dummy variables. Each is discussed below.

Policy Variables

The policy variables considered in the analysis included those in the general categories of solvency, nonmonetary eligibility rules, and state administration.

Solvency Variables. Three variables were used to measure the impact of state solvency on denial and appeal rates. Two of these variables measure a state's current ability to raise taxes—(1) the effective employer UI tax rate as a percentage of taxable wages and (2) the state taxable wage base (as measured by the difference between the state taxable wage base and the required federal taxable wage base). A third factor, the reserve ratio (net reserves as a share of total covered wages), was used to measure the health of the state UI trust fund.[1]

Lower state tax collections (as described by the combined effect of the tax rate and tax base) would be expected to result in higher rates of denial (and consequently appeal). Similarly, the lower the reserve ratio, the higher the anticipated rate of denials and appeals. Denial rates and claimant appeal rates would be expected to be higher when states are facing solvency problems, presumably because fiscal factors can create pressures to deny benefits and to establish (legislatively or administratively) more restrictive eligibility rules. Employer appeal rates, however, may be lower when states are facing financial problems. This result is anticipated because when states deny benefits at higher rates, there are fewer claims that employers can consider appealing.

Nonmonetary Eligibility Rules. Three variables were used to measure the severity of the penalty imposed for nonmonetary eligibility disqualification. State law regarding the length of time an eligibility disqualification is imposed (either for the entire spell of unemployment or for a shorter period of weeks) was used for the issues of voluntary leaving, discharge due to misconduct, and refusal of suitable work.[2] As noted in Advisory Council on Unemployment Compensation (1995), a number of states increased the severity of their penalty in these areas between 1978 and 1994.[3] On the one hand, for each issue, a more severe penalty (that is, a durational disqualification) could result in increased denials (provided that states are able to detect the eligibility problems which may result in a determination of ineligibility).[4] On the other hand, a more severe penalty may discourage potential claimants from filing for benefits, thereby reducing the denial rate. Similarly, the relationship between these nonmonetary eligibility measures and appeal rates is difficult to predict a priori.

Measures of State Administration. Four variables were used to measure state administration: (1) the quality of a state's nonmonetary determinations, (2) the timeliness with which a state makes nonmonetary determinations, (3) the extent to which Democrats control a state's legislature, and (4) the denial rate of UI claims of a state. The quality and timeliness with which nonmonetary determinations are decided should affect the rates at which employers and claimants appeal decisions. If employers or claimants perceive that the state is doing a poor job in administering UI claims, then they may be more likely to appeal eligibility decisions made by the state. The extent to which Democrats are in control of the state legislature and the governor's office was also included in the model. This variable might serve as a

proxy for measuring the state UI administration's attitude toward individuals applying for UI benefits. Presumably, a more Democratic state government could bring a more claimant-oriented perspective to the administration of the program, and a more Republican state government could bring a more employer-oriented perspective. Finally, when predicting appeal rates, the denial rate was also included to control for differences in the percentage of claimants for whom an appeal is an option; and when predicting appeal outcomes, information on denial rates and the rate at which employers file appeals were used to control for these program differences across states.

Benefit Variables

Two measures of benefit generosity—(1) actual duration of benefits and (2) the ratio of average weekly benefit amount to state average weekly wage—were included in the analysis.[5] The more generous benefits are perceived to be, the more attractive the UI program appears to potential claimants. Thus, more generous benefits would be expected to result in higher denial rates, since more claimants are enticed to apply. Similarly, claimant and employer appeal rates would be expected to be higher when benefits are more generous because of an increased application rate for UI benefits and an increased desire on the part of claimants to receive benefits.

Labor Force Characteristics

Three variables were used to control for differences in the labor force across states and over time: (1) the total unemployment rate, (2) the percentage of the unemployed who are job losers, and (3) the unionization rate. There are higher unemployment rates and higher percentages of job losers during times of recession, when individuals are more likely to be laid off, less likely to quit their jobs, and more likely to accept work. As a result, during periods of higher unemployment (and when a higher portion of the unemployed are job losers), there are likely to be fewer separation denials and fewer appeals. Higher rates of unionization are likely to be associated with fewer separation denials and appeals, since unions are often concentrated in industries that rely on temporary layoffs (for example, construction, manufacturing) and unionized employees are more likely to be eligible for UI benefits than are non-union employees.[6]

State Dummy Variables

In addition to the policy variables, benefit variables, and labor force characteristics already discussed, dummy variables for each state were included in the model to determine the fixed effect of each state with respect to denial rates, appeal rates, and appeal outcomes. Pennsylvania was omitted as the reference state, because it has average denial and appeal rates. In general, a state coefficient that is statistically significant and positive (or negative) indicates that the state has a higher (or lower) denial, appeal, or success rate relative to the reference state (Pennsylvania), holding all other factors constant.

Data and Model Specification

The model was estimated using annual, state-level data from 1978 to 1990. These 13 years were the only years for which data were available for all variables. Data were excluded for the state of Nebraska, because its denial rates are extremely high, and knowledgeable individuals in the Unemployment Insurance Service indicated that data submitted by Nebraska may not be consistent with data from other states. Similarly, Puerto Rico and the Virgin Islands were excluded from the analysis because of issues regarding data reliability. Table B-1 displays the means for all the variables used.

Given the panel nature of the data (that is, multiple observations for each state over a given number of years), the model was estimated using generalized least squares regression (GLS). Unlike ordinary least squares regression (OLS), the GLS model does not assume that the observations are independent of one another. Consequently, it is the preferred estimation technique for panel data, resulting in more reliable estimates both of standard errors and of the model's overall explanatory power.

Discussion of Empirical Results

Results for Separation and Nonseparation Denial Rates

The denial rate results from the GLS regressions are presented in Table B-2. Different equations were estimated for separation issues (raised by an employer regarding a claimant's separation from work) and nonseparation issues (raised by a state agency regarding a claimant's ongoing eligibility for UI benefits). In these equations, the separation denial rate is expressed as a percentage of initial claims and the nonseparation denial rate is expressed

as a percentage of claimant contacts. The model had higher explanatory power for differences across states and time for separation issues (29 percent of variation was explained when the state dummy variables were excluded) than for nonseparation issues (only 7 percent of variation was explained when state dummy variables were excluded). The statistically significant variables from these regressions are discussed in Chapter 9.

TABLE B-1. Means and Standard Deviations of Variables from Regressions, All States, 1978-1990

Variables	Mean	Standard Deviation
Dependent Variables		
Separation Denial Rate	0.093	0.046
Nonseparation Denial Rate	0.153	0.098
Employer Appeal Rate	0.010	0.008
Claimant Appeal Rate	0.036	0.018
Employer Success Rate	0.360	0.147
Claimant Success Rate	0.280	0.071
Explanatory Variables		
Denial Rate	0.211	0.099
Effective Tax Rate	0.012	0.010
State Tax Base over Federal Level (1993 dollars)	2,269	3,474
Reserve Ratio (lagged 3 years)	1.09	1.04
Disqualification for Voluntary Quit (percent)	0.90	0.30
Disqualification for Refusing Work (percent)	0.69	0.46
Disqualification for Misconduct (percent)	0.71	0.45
State Government	2.02	0.97
Performance of Nonmonetary Determinations	0.82	0.19
Timeliness of Nonmonetary Determinations	0.75	0.17
Actual Benefit Duration (Weeks)	13.6	2.7
Benefit Amount/Wages	0.37	0.05
Total Unemployment Rate	0.068	0.023
Percentage of Labor Force Unionized	0.17	0.07
Job Losers as Percentage of Unemployed	0.48	0.08
Percentage of Appeals Filed by Employers	0.199	0.097

NOTE: Data are for 1978 to 1990 and include the District of Columbia and all states except Nebraska.

SOURCE: ACUC calculations using database compiled from the following: Council of State Governments (1970-1994); U.S. Department of Labor (1995a, b, c, d); and U.S. General Accounting Office (1993).

TABLE B-2. Regression Results for Separation and Nonseparation Denials, All States, 1978-1990

Explanatory Variables	Separation Denial Rate/Initial Claim		Nonseparation Denial Rate/Claimant Contact	
Effective Tax Rate	0.051	(0.88)	–0.600	(0.49)
State Tax Base over Federal Level	–0.0000002	(0.83)	–0.000001	(0.57)
Reserve Ratio (lagged 3 years)	0.002	(0.22)	-0.010	(0.01)
Disqualification for Voluntary Quit	–0.022	(0.00)	—	—
Disqualification for Refusing Work	—	—	0.007	(0.50)
Disqualification for Misconduct	–0.020	(0.00)	—	—
State Government	–0.002	(0.22)	–0.001	(0.77)
Actual Benefit Duration	0.0008	(0.36)	–0.007	(0.00)
Benefit Amount/Wages	–0.106	(0.01)	0.004	(0.97)
Total Unemployment Rate	–0.349	(0.00)	–0.468	(0.05)
Percentage of Labor Force Unionized	0.023	(0.48)	–0.257	(0.00)
Job Losers as Percentage of Unemployed	–0.148	(0.00)	–0.043	(0.40)
State Dummy Variables				
Alabama	0.007	(0.58)	0.171	(0.00)
Alaska	0.000	(1.00)	0.149	(0.00)
Arizona	0.045	(0.00)	0.144	(0.00)
Arkansas	0.045	(0.00)	0.032	(0.32)
California	0.014	(0.18)	0.082	(0.00)
Colorado	0.119	(0.00)	0.221	(0.00)
Connecticut	0.005	(0.57)	0.045	(0.07)
Delaware	0.011	(0.21)	–0.033	(0.17)
District of Columbia	0.072	(0.00)	0.013	(0.66)
Florida	0.086	(0.00)	0.052	(0.08)
Georgia	0.039	(0.00)	–0.056	(0.07)
Hawaii	0.029	(0.01)	0.103	(0.00)
Idaho	0.025	(0.03)	0.231	(0.00)
Illinois	0.038	(0.00)	0.046	(0.05)
Indiana	0.038	(0.00)	0.022	(0.48)
Iowa	0.050	(0.00)	0.031	(0.20)
Kansas	0.025	(0.02)	0.071	(0.01)
Kentucky	0.017	(0.09)	–0.033	(0.20)
Louisiana	0.089	(0.00)	0.047	(0.09)
Maine	0.005	(0.56)	0.108	(0.00)
Maryland	0.069	(0.00)	0.030	(0.25)
Massachusetts	0.001	(0.93)	–0.028	(0.28)
Michigan	0.024	(0.01)	0.051	(0.05)

(continued)

TABLE B-2. (continued)

Explanatory Variables	Separation Denial Rate/Initial Claim		Nonseparation Denial Rate/Claimant Contact	
Minnesota	0.031	(0.00)	0.063	(0.01)
Mississippi	0.027	(0.04)	0.038	(0.26)
Missouri	0.050	(0.00)	0.118	(0.00)
Montana	0.039	(0.00)	–0.016	(0.51)
Nevada	0.110	(0.00)	0.100	(0.00)
New Hampshire	0.011	(0.33)	0.110	(0.00)
New Jersey	0.010	(0.34)	0.041	(0.11)
New Mexico	0.074	(0.00)	–0.008	(0.79)
New York	–0.002	(0.86)	0.131	(0.00)
North Carolina	–0.010	(0.43)	–0.103	(0.00)
North Dakota	0.016	(0.09)	0.029	(0.24)
Ohio	0.025	(0.00)	0.047	(0.04)
Oklahoma	0.073	(0.00)	–0.071	(0.01)
Oregon	0.023	(0.02)	0.135	(0.00)
Pennsylvania	—	—	—	—
Rhode Island	0.009	(0.30)	0.022	(0.34)
South Carolina	0.000	(0.98)	–0.065	(0.04)
South Dakota	–0.003	(0.75)	0.154	(0.00)
Tennessee	–0.017	(0.11)	–0.093	(0.00)
Texas	0.126	(0.00)	0.042	(0.15)
Utah	0.023	(0.03)	0.255	(0.00)
Vermont	0.019	(0.07)	–0.076	(0.00)
Virginia	–0.010	(0.39)	0.002	(0.94)
Washington	0.013	(0.21)	0.103	(0.00)
West Virginia	0.027	(0.01)	0.008	(0.77)
Wisconsin	0.019	(0.03)	0.019	(0.40)
Wyoming	–0.003	(0.78)	0.090	(0.00)
Constant	0.217	(0.00)	0.306	(0.00)
R^2 Statistic	0.82		0.72	

NOTES: Data are for 1978 to 1990 and include the District of Columbia and all states except Nebraska.

A GLS fixed effects model was used to estimate the equations.

Pennsylvania was omitted from the state dummy variables as the reference state.

Significance levels are noted in parentheses.

The R^2 statistics for these equations are inflated because of the inclusion of the 49 state dummy variables. When the state dummy variables were excluded from the models, the R^2 of the separation denial rate equation was 0.29 and of the nonseparation denial rate equation was 0.07.

SOURCE: ACUC calculations using database compiled from the following: Council of State Governments (1970-1994); U.S. Department of Labor (1995a, b, c, d); and the U.S. General Accounting Office (1993).

Results for Employer and Claimant Appeal Rates

The employer and claimant appeal rate results from the GLS regressions are presented in Table B-3. In these equations, the employer (claimant) appeal rate is defined as the number of appeals brought by employers (claimants) as a percentage of all initial claims. The model had higher explanatory power for differences across states and time for claimant appeal rates (34 percent of variation was explained when the state dummy variables were excluded) than for employer appeal rates (17 percent of variation was explained when the state dummy variables were excluded). The statistically significant variables from these regressions are discussed in Chapter 9.

Results for Employer and Claimant Success Rates

The employer and claimant success rate results from the GLS regressions are presented in Table B-4. In these equations, success rate is defined as the number of appeals that employers (claimants) won as a percentage of all lower-authority appeals brought by employers (claimants). These models had very low predictive power (none of the variation was explained in either equation when the state dummy variables were excluded). The statistically significant variables from these regressions are discussed in Chapter 9.

ANALYSIS OF APPEAL-LEVEL DATA FROM WISCONSIN

Variables Used in the Analysis

Using the appeal-level data from Wisconsin,[7] two categories of factors were analyzed to determine their influence on the success rates of claimants and employers: employer characteristics and characteristics of the appeal hearing. Table B-5 displays the means for all variables used.

Employer Characteristics

Three variables were used to describe characteristics of the employer. The first measured the size of the firm and was divided into four groups: firms with fewer than 20 employees, firms with between 20 and 99 employees, firms with between 100 and 499 employees, and firms with 500 or more employees. It is anticipated that larger employers are more likely to win a hearing, since they have more resources to devote to managing unemploy-

ment compensation costs. The second variable measured the experience-rated tax of the employer.[8] The expected effects of employer tax rates on employer success rates are discussed above. A third measure of whether the employer was in the manufacturing industry was included to describe the type of employer further.

Characteristics of the Appeal Hearing

Six variables were used to describe characteristics of the hearing. The first two were whether the claimant appeared at the hearing and whether the employer appeared at the hearing. The second two were whether the claimant was represented at the hearing and whether the employer was represented at the hearing.[9] Representation refers only to legal representation; unfortunately, the data do not include any other form of representation. With regard to employers, the attorney could either work internally for the firm or be hired as outside counsel. As discussed earlier, participation and representation are generally expected to increase the likelihood that the party wins. The fifth variable was whether the hearing involved consideration of multiple issues. Employers are more likely to win appeals involving multiple issues than are claimants, because the issues that have been raised by the employer in these appeals are more complex and require more preparation and familiarity with UI laws and the appeals system. The final variable was whether the appeal hearing was conducted by telephone or in person. The effect of this variable is difficult to predict.

The issue being appealed was an important characteristic of the hearing that was not available in these data and therefore not used in the equations. As discussed in Chapter 9, this is an important variable because the party who has the burden of proof in a given appeal hearing varies with the issues being disputed.

Model Specification

Because the success rate variables that are being estimated are dichotomous (that is, they equaled one if the claimant or employer won the appeal and zero if the claimant or employer did not win the appeal), the model was estimated using a logistic regression.[10] The results of these regressions are presented in Table B-6. The numbers displayed in this table are the log odds ratios associated with each variable. The log odds ratio indicates the change in the likelihood of an event occurring (in this case whether the employer or claimant won the appeal) caused by each explanatory variable, holding all

TABLE B-3. Regression Results for Employer and Claimant Appeals, All States, 1978-1990

Explanatory Variables	Employer Appeal Rate/ Initial Claim		Claimant Appeal Rate/ Initial Claim	
Effective Tax Rate	–0.018	(0.73)	0.178	(0.06)
State Tax Base over Federal Level	0.0000003	(0.01)	0.000000002	(0.99)
Reserve Ratio (lagged 3 years)	–0.0002	(0.22)	0.0003	(0.50)
Disqualification for Voluntary Quit	–0.0002	(0.80)	0.002	(0.24)
Disqualification for Refusing Work	—	—	–0.003	(0.04)
Disqualification for Misconduct	0.005	(0.00)	0.010	(0.00)
State Government	–0.0004	(0.13)	–0.0004	(0.44)
Performance of Nonmonetary Determinations	–0.0006	(0.47)	–0.002	(0.15)
Timeliness of Nonmonetary Determinations	–0.001	(0.21)	0.0004	(0.83)
Denial Rate per Initial Claim	0.017	(0.00)	0.052	(0.00)
Actual Benefit Duration	0.0003	(0.06)	0.0006	(0.02)
Benefit Amount/Wages	–0.017	(0.01)	–0.019	(0.09)
Total Unemployment Rate	–0.049	(0.00)	–0.040	(0.12)
Percentage of Labor Force Unionized	–0.030	(0.00)	–0.023	(0.02)
Job Losers as Percentage of Unemployed	0.007	(0.04)	–0.004	(0.46)
State Dummy Variables				
Alabama	0.006	(0.00)	0.001	(0.70)
Alaska	–0.006	(0.04)	–0.003	(0.53)
Arizona	0.001	(0.79)	0.020	(0.00)
Arkansas	–0.001	(0.79)	0.014	(0.00)
California	–0.001	(0.45)	–0.010	(0.00)
Colorado	0.020	(0.00)	0.044	(0.00)
Connecticut	0.024	(0.00)	0.006	(0.03)
Delaware	–0.004	(0.01)	0.006	(0.02)
District of Columbia	0.013	(0.00)	0.030	(0.00)
Florida	0.004	(0.03)	0.019	(0.00)
Georgia	0.012	(0.00)	–0.007	(0.05)
Hawaii	0.000	(0.90)	0.002	(0.51)
Idaho	–0.010	(0.00)	–0.025	(0.00)
Illinois	0.010	(0.00)	0.007	(0.01)
Indiana	–0.001	(0.54)	0.003	(0.40)
Iowa	0.019	(0.00)	0.018	(0.00)
Kansas	0.010	(0.00)	0.023	(0.00)
Kentucky	0.001	(0.42)	0.006	(0.04)
Louisiana	0.016	(0.00)	0.034	(0.00)
Maine	–0.002	(0.22)	–0.006	(0.02)

(continued)

TABLE B-3. (continued)

Explanatory Variables	Employer Appeal Rate/ Initial Claim		Claimant Appeal Rate/ Initial Claim	
Maryland	0.007	(0.00)	0.024	(0.00)
Massachusetts	0.001	(0.45)	–0.003	(0.25)
Michigan	0.002	(0.15)	–0.011	(0.00)
Minnesota	0.003	(0.03)	0.004	(0.15)
Mississippi	–0.001	(0.72)	0.008	(0.06)
Missouri	0.004	(0.04)	0.011	(0.00)
Montana	–0.003	(0.04)	–0.014	(0.00)
Nevada	0.006	(0.00)	0.028	(0.00)
New Hampshire	–0.007	(0.00)	0.010	(0.00)
New Jersey	0.002	(0.27)	0.012	(0.00)
New Mexico	0.009	(0.00)	0.021	(0.00)
New York	–0.004	(0.04)	–0.006	(0.04)
North Carolina	–0.003	(0.13)	–0.007	(0.03)
North Dakota	–0.003	(0.10)	0.006	(0.02)
Ohio	–0.002	(0.12)	–0.017	(0.00)
Oklahoma	0.004	(0.01)	0.024	(0.00)
Oregon	–0.003	(0.11)	–0.005	(0.11)
Pennsylvania	—	—	—	—
Rhode Island	–0.004	(0.00)	–0.006	(0.02)
South Carolina	0.001	(0.59)	–0.001	(0.76)
South Dakota	0.001	(0.78)	0.009	(0.00)
Tennessee	–0.002	(0.33)	–0.007	(0.02)
Texas	0.010	(0.00)	0.025	(0.00)
Utah	–0.002	(0.40)	0.007	(0.03)
Vermont	0.001	(0.53)	0.001	(0.68)
Virginia	–0.001	(0.49)	–0.006	(0.08)
Washington	–0.002	(0.20)	–0.003	(0.32)
West Virginia	0.008	(0.00)	0.013	(0.00)
Wisconsin	0.003	(0.03)	–0.002	(0.46)
Wyoming	0.004	(0.01)	–0.005	(0.07)
Constant	0.010	(0.01)	0.020	(0.00)
R^2 Statistic	0.86		0.90	

NOTES: Data are for 1978 to 1990 and include the District of Columbia and all states except Nebraska.

A GLS fixed effects model was used to estimate the equations.

Pennsylvania was omitted from the state dummy variables as the reference state.

Significance levels are noted in parentheses.

The R^2 statistics for these equations are inflated because of the inclusion of the 49 state dummy variables. When the state dummy variables were excluded from the models, the R^2 of the employer appeal rate equation was 0.17 and of the claimant appeal rate equation was 0.34.

SOURCE: ACUC calculations using database compiled from the following: Council of State Governments (1970-1994); U.S. Department of Labor (1995a, b, c, d); and U.S. General Accounting Office (1993).

TABLE B-4. Regression Results for Lower-Authority Appeal Success, All States, 1978-1990

Explanatory Variables	Lower-Authority Appeal Success Rate			
	Employer		Claimant	
Effective Tax Rate	–4.209	(0.04)	–2.286	(0.00)
State Tax Base over Federal Level	–0.000002	(0.64)	–0.000006	(0.00)
Reserve Ratio (lagged 3 years)	–0.011	(0.22)	–0.004	(0.18)
Disqualification for Voluntary Quit	0.017	(0.63)	–0.027	(0.04)
Disqualification for Refusing Work	—	—	0.025	(0.01)
Disqualification for Misconduct	0.004	(0.88)	–0.015	(0.14)
State Government	0.008	(0.40)	0.009	(0.01)
Performance of Nonmonetary Determinations	–0.026	(0.38)	–0.017	(0.10)
Timeliness of Nonmonetary Determinations	–0.024	(0.55)	–0.003	(0.81)
Denial Rate per Initial Claim	–0.105	(0.33)	0.069	(0.07)
Actual Benefit Duration	0.004	(0.49)	0.003	(0.14)
Benefit Amount/Wages	–0.020	(0.93)	0.068	(0.42)
Total Unemployment Rate	–0.522	(0.34)	–0.015	(0.94)
Percentage of Labor Force Unionized	0.132	(0.54)	–0.238	(0.00)
Job Losers as Percentage of Unemployed	0.053	(0.66)	0.047	(0.27)
Percentage of Appeals Filed by Employers	–0.304	(0.01)	0.101	(0.02)
State Dummy Variables				
Alabama	0.203	(0.01)	–0.033	(0.25)
Alaska	0.149	(0.15)	0.105	(0.00)
Arizona	0.072	(0.31)	–0.116	(0.00)
Arkansas	0.016	(0.84)	–0.070	(0.01)
California	0.017	(0.79)	0.041	(0.10)
Colorado	0.182	(0.02)	0.016	(0.56)
Connecticut	–0.060	(0.37)	–0.111	(0.00)
Delaware	0.326	(0.00)	0.044	(0.03)
District of Columbia	0.089	(0.19)	–0.024	(0.32)
Florida	0.041	(0.56)	–0.102	(0.00)
Georgia	0.303	(0.00)	–0.163	(0.00)
Hawaii	–0.014	(0.85)	0.027	(0.28)
Idaho	0.137	(0.06)	0.042	(0.09)
Illinois	0.004	(0.95)	–0.126	(0.00)
Indiana	0.064	(0.34)	–0.042	(0.07)
Iowa	0.154	(0.01)	0.050	(0.02)
Kansas	0.005	(0.93)	0.083	(0.00)
Kentucky	0.028	(0.64)	–0.076	(0.00)
Louisiana	0.093	(0.16)	–0.055	(0.02)
Maine	–0.038	(0.49)	–0.004	(0.84)

(continued)

TABLE B-4. (continued)

Explanatory Variables	Lower-Authority Appeal Success Rate			
	Employer		Claimant	
Maryland	0.112	(0.09)	0.118	(0.00)
Massachusetts	–0.091	(0.10)	0.009	(0.68)
Michigan	–0.050	(0.41)	0.100	(0.00)
Minnesota	–0.006	(0.92)	–0.031	(0.05)
Mississippi	–0.035	(0.67)	–0.122	(0.00)
Missouri	0.101	(0.15)	–0.078	(0.00)
Montana	0.082	(0.14)	–0.061	(0.00)
Nevada	0.107	(0.08)	–0.013	(0.54)
New Hampshire	0.038	(0.56)	–0.035	(0.16)
New Jersey	–0.044	(0.49)	0.007	(0.76)
New Mexico	0.123	(0.07)	–0.007	(0.77)
New York	–0.172	(0.01)	–0.050	(0.03)
North Carolina	0.215	(0.00)	–0.056	(0.02)
North Dakota	0.130	(0.02)	0.041	(0.04)
Ohio	0.044	(0.42)	–0.001	(0.95)
Oklahoma	0.036	(0.56)	–0.101	(0.00)
Oregon	0.059	(0.36)	0.078	(0.00)
Pennsylvania	—	—	—	—
Rhode Island	–0.004	(0.94)	0.080	(0.00)
South Carolina	0.213	(0.01)	–0.114	(0.00)
South Dakota	0.050	(0.46)	–0.060	(0.01)
Tennessee	0.069	(0.30)	–0.115	(0.00)
Texas	0.052	(0.47)	–0.047	(0.06)
Utah	0.055	(0.43)	0.059	(0.02)
Vermont	–0.005	(0.93)	–0.071	(0.00)
Virginia	0.128	(0.06)	–0.109	(0.00)
Washington	0.028	(0.65)	0.045	(0.04)
West Virginia	0.100	(0.12)	0.051	(0.03)
Wisconsin	–0.062	(0.25)	–0.048	(0.01)
Wyoming	0.137	(0.03)	–0.055	(0.01)
Constant	0.395	(0.01)	0.287	(0.00)
R^2 Statistic	0.35		0.66	

NOTES: Success rate is defined as percentage of appeals won by party who appealed.

Data are for 1978 to 1990 and include the District of Columbia and all states except Nebraska.

A GLS fixed effects model was used to estimate the equations.

Pennsylvania was omitted from the state dummy variables as the reference state.

Significance levels are noted in parentheses.

The R^2 statistics for these equations are inflated because of the inclusion of the 49 state dummy variables. When the state dummy variables were excluded from the models the R^2 of both equations was 0.00.

SOURCE: ACUC calculations using database compiled from the following: Council of State Governments (1970-1994); U.S. Department of Labor (1995a, b, c, d); and U.S. General Accounting Office (1993).

other factors constant. A log odds ratio greater than 1 denotes an increase in the likelihood of the event, whereas a log odds ratio less than 1 denotes a decrease in the likelihood of the event. For example, according to the results of the regressions in Table B-6, an employer who appeared at a hearing was 2.027 times more likely to win the appeal than an employer who did not appear. In contrast, an employer was only 0.623 times (about two-thirds) as likely to win an appeal when the claimant appeared at the hearing than when the claimant did not appear.

TABLE B-5. Means and Standard Deviations of Variables from Regressions, Wisconsin, 1994

Variables	Mean	Standard Deviation
Dependent Variables		
Employer Received Favorable Decision*	0.58	0.49
Claimant Received Favorable Decision*	0.42	0.49
Explanatory Variables		
Employer Size		
Fewer Than 20 Employees	8	6
Between 20 and 99 Employees	51	23
Between 100 and 499 Employees	247	113
500 or More Employees	2,203	2,242
Tax Rate	2.31	1.95
Manufacturing Industry*	0.29	0.45
Employer Appears at Hearing*	0.16	0.36
Claimant Appears at Hearing*	0.65	0.48
Employer Is Represented at Hearing*	0.03	0.16
Claimant Is Represented at Hearing*	0.04	0.19
Multiple Issues Contested*	0.33	0.47
Telephone Hearing*	0.18	0.38

NOTES: Data are based on 11,746 lower-authority appeal hearings from Wisconsin in 1994. The means of variables with an asterisk (*) are percentages of the total sample. For example, the mean value of 0.58 for the first dependent variable indicates that employers received a favorable decision in 58 percent of all appeals brought.

SOURCE: ACUC calculations using data provided by Department of Industry, Labor, and Human Resources, State of Wisconsin.

Results

The model for employers correctly predicted whether the employer would win or lose an appeal that the employer brought in 72 percent of the cases and was statistically significant, as indicated by the model chi square of 117. It was significantly better at predicting when an employer would lose an appeal than when an employer would win an appeal, however. It correctly predicted when an employer would lose an appeal in 99 percent of the cases, but it correctly

TABLE B-6. Regression Results for Employer and Claimant Success Rates, Wisconsin, 1994

	Received Favorable Decision	
Explanatory Variables	**Employers**	**Claimants**
Employer Size		
Fewer Than 20 Employees	—	—
Between 20 and 99 Employees	1.090 (0.44)	0.813 (0.01)
Between 100 and 499 Employees	1.355 (0.01)	0.845 (0.03)
500 or More Employees	1.345 (0.01)	0.742 (0.00)
Tax Rate	0.986 (0.53)	1.046 (0.00)
Manufacturing Industry	1.125 (0.19)	0.873 (0.03)
Employer Appears at Hearing	2.027 (0.00)	0.666 (0.00)
Claimant Appears at Hearing	0.623 (0.00)	30.143 (0.00)
Employer Is Represented at Hearing	1.698 (0.00)	0.642 (0.01)
Claimant Is Represented at Hearing	0.872 (0.63)	2.288 (0.00)
Multiple Issues Contested	0.769 (0.00)	0.533 (0.00)
Telephone Hearing	0.711 (0.00)	0.678 (0.00)
N	3,583	8,132
Percent Correctly Classified	72.17	71.84
Model Chi Square	117 (0.00)	1,906 (0.00)

NOTES: Data are based on lower-authority appeals hearings from Wisconsin in 1994.
A logistic regression model was used to estimate the equations.
"Fewer Than 20 Employees" was omitted as the reference group.
Significance levels are noted in parentheses.

SOURCE: ACUC calculations using data provided by Department of Industry, Labor, and Human Resources, State of Wisconsin.

predicted when an employer would win an appeal in only 4 percent of the cases. Employers in Wisconsin lose 72 percent of their appeals, and the model was able to correctly predict 72 percent of the outcomes.

The model for claimants correctly predicted whether the claimant would win or lose his or her appeal in 72 percent of the cases and was statistically significant, as indicated by the model chi square of 1906. Like the employer model, this model was significantly better at predicting when a claimant would lose an appeal than when a claimant would win an appeal. It correctly predicted when a claimant would lose an appeal in 94 percent of the cases, but it correctly predicted when a claimant would win an appeal in only 17 percent of the cases. Claimants in Wisconsin lose 71 percent of their appeals, and the model was able to correctly predict 72 percent of the outcomes. The results of both regressions are discussed in Chapter 9.

NOTES

1. This measure was lagged 3 years in the regression equation. The 3-year lag structure had the most statistically significant impact on the denial and appeal rates. Statistically, the lag structure reflects the notion that it takes a few years for state policy decisions prompted by the status of the trust fund balance to affect a state's law or a state's administration of the program.

2. Since refusal of suitable work is not a factor in determining initial eligibility, it was not included in the equations for the separation denial rate, employer appeal rate, or employer success rate.

3. Between 1978 and 1994, 9 states imposed durational disqualifications for voluntary leaving, 12 states imposed durational disqualifications for misconduct discharges, and 15 states imposed durational disqualifications for refusing suitable work. (Advisory Council on Unemployment Compensation 1995, 111).

4. For example, a state that is not adept at identifying nonmonetary eligibility violations would be paying benefits to recipients who are actually "ineligible"; this would result in low determination rates and consequently low denial rates. By contrast, a state that is good at detecting eligibility violations would conduct more determinations that would result in more denials.

5. There are some disadvantages with the use of these two particular measures. For example, the report of the Advisory Council on Unemployment Compensation (1995) noted that the wage replacement rate (that is, the average weekly UI benefit divided by average weekly wage) is an inaccurate measure because the denominator is not available for UI recipients. (See, for example, Advisory Council on Unemployment Compensation (1995, 126).) Similarly, variations in the actual duration of benefits are more dependent upon the characteristics of the unemployed and the labor market in a given state and year than on the potential duration for which a claimant is eligible to receive benefits.

6. Tabulations from the Survey of Income and Program Participation (SIPP) indicate that while 61 percent of unemployed union members receive UI benefits, only 29 percent of unemployed non-union workers receive benefits (Bassi and Chasanov, forthcoming).

7. As discussed in Chapter 9, these data include 11,746 lower-authority appeal hearings resulting from nonmonetary separation issues.

8. A dummy variable measuring whether the firm was paying the maximum tax rate was also considered. It was not statistically significant in either the employer or the claimant regression equations. However, only 1.6 percent (183) of the hearings in this sample involved firms at the maximum tax rate, which may make conclusions about the lack of significance of this variable inappropriate. Therefore, it was dropped from the analysis.

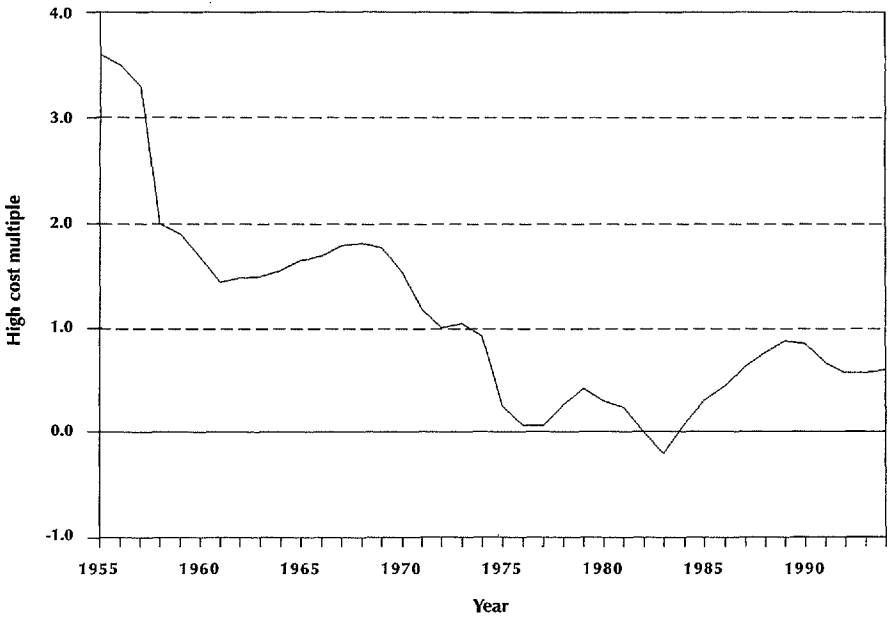
9. A dummy variable measuring whether both the claimant and the employer had representation at the hearing was also considered. It was not statistically significant in either the employer or claimant regression equations. However, only 0.4 percent (52) of the hearings in this sample were those in which both parties were represented, which may make conclusions about the lack of significance of this variable inappropriate. Therefore, it was dropped from the analysis.

10. The model was also run using OLS and probit regressions. However, the models did not correctly account for the error distribution of the data using any of the regression techniques, and only the logistic regression results are presented here.

Appendix C / Financing: Background Figures and Table

THIS COLLECTION OF FIGURES and a table contains historic and state-by-state information related to the financing of the Unemployment Insurance system. Included are data on the high cost multiple, the relationship between trust fund solvency and benefit recipiency, the reserve ratio, state tax rates and tax collections, and federal loans to state UI trust funds.

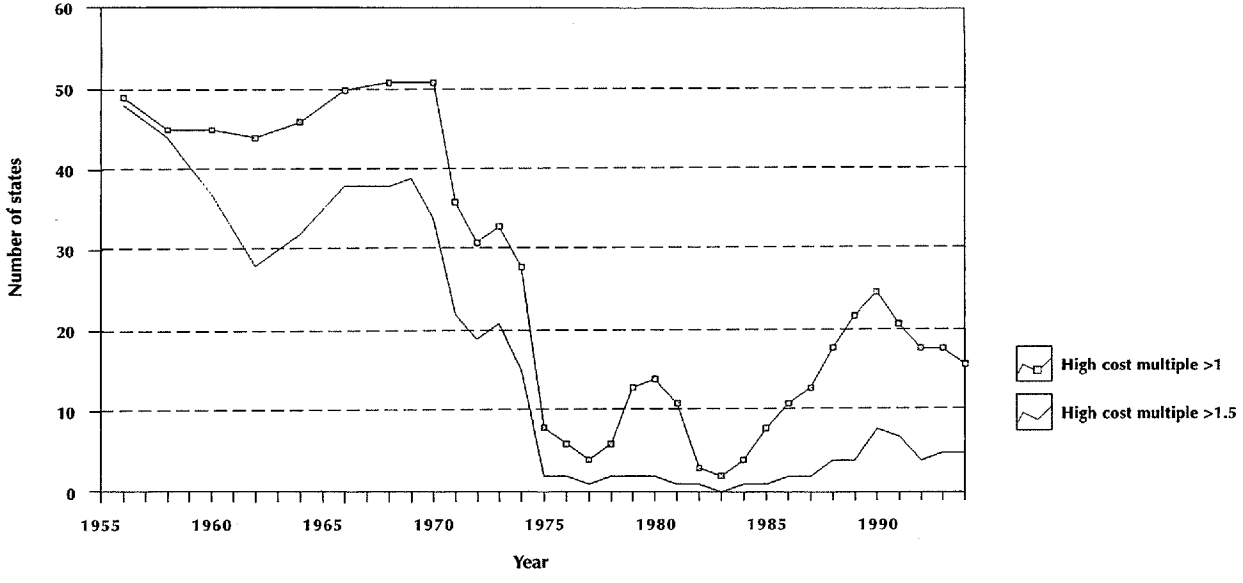
FIGURE C-1. High Cost Multiple for the Overall UI System, 1955-1994



NOTES: Data are for all 50 states and the District of Columbia. Data are included for Puerto Rico beginning in 1961 and for the Virgin Islands beginning in 1978.

SOURCES: U.S. Department of Labor (1995d); U.S. General Accounting Office (1988).

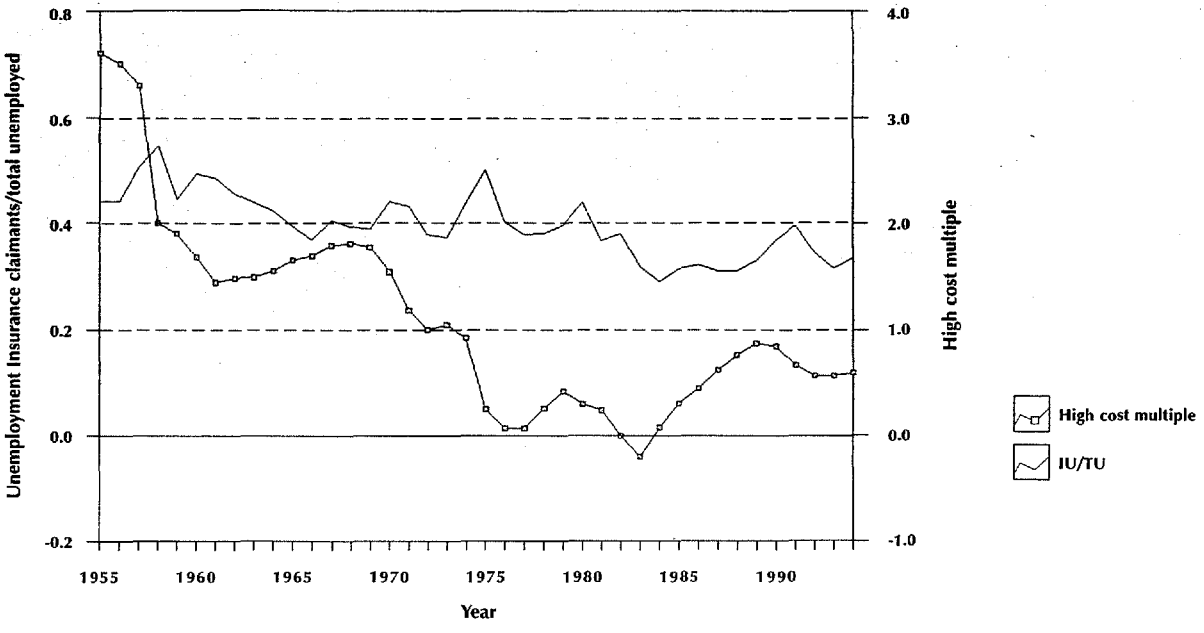
FIGURE C-2. States with Adequate Reserves as Measured by High Cost Multiple, 1955-1994



NOTES: Data are for all 50 states and the District of Columbia. Data are included for Puerto Rico beginning in 1961 and for the Virgin Islands beginning in 1978.

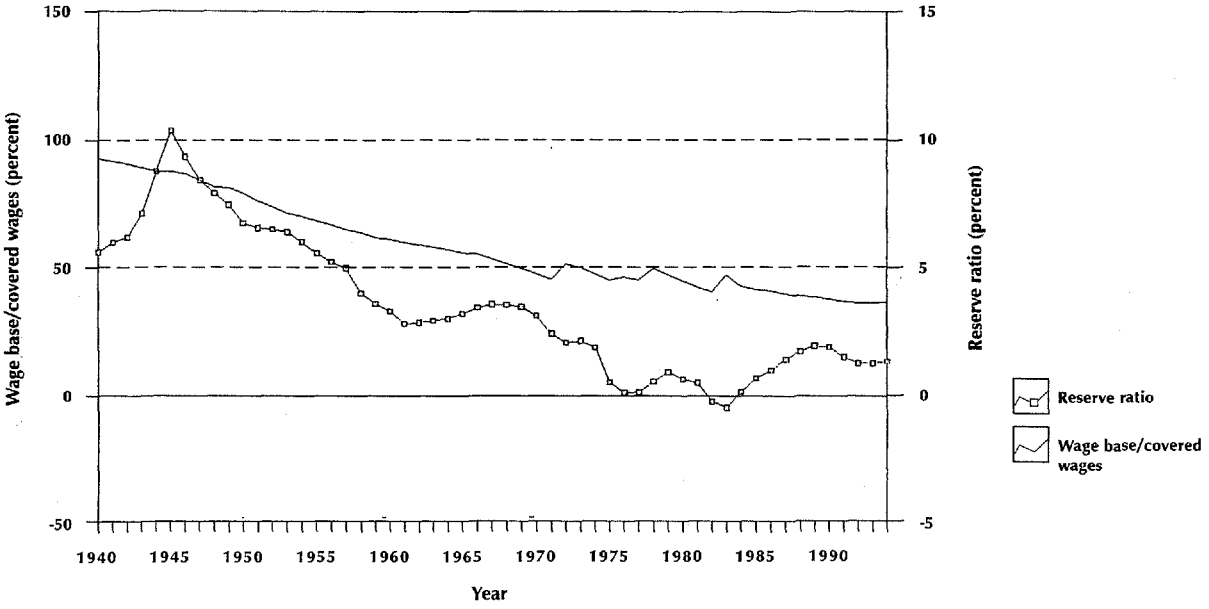
SOURCES: U.S. Department of Labor (1995d); U.S. General Accounting Office (1988).

FIGURE C-3. Relationship Between Benefit Recipiency and Trust Fund Solvency, 1955-1994



SOURCES: Council of Economic Advisors (1995); U.S. Department of Labor (1995d).

FIGURE C-4. Reserve Ratio and FUTA Wage Base, 1940-1994



NOTES: The reserve ratio is net reserves as a percentage of total covered wages. The FUTA wage base is relative to total covered wages.

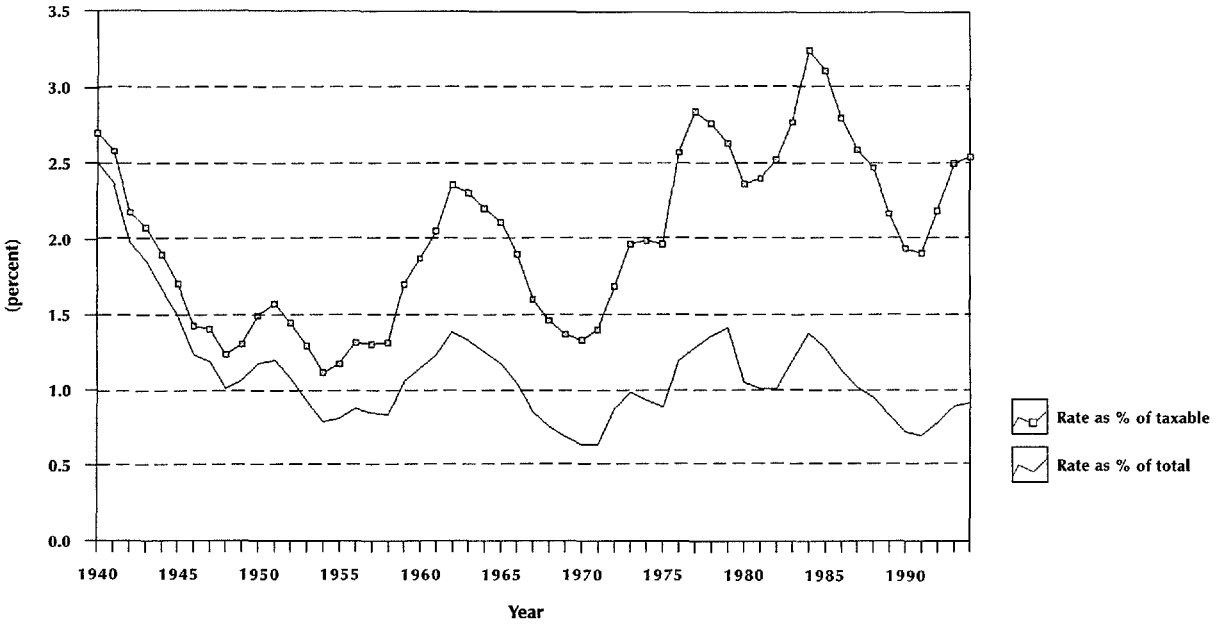
SOURCE: U.S. Department of Labor (1995d).

TABLE C-1. Reserve Ratios, by State, 1994

State	Reserve Ratio	State	Reserve Ratio
Puerto Rico	7.54	Tennessee	1.62
Virgin Islands	6.67	Kentucky	1.55
Vermont	4.51	North Dakota	1.55
Wyoming	4.15	Nebraska	1.51
Oregon	3.86	Rhode Island	1.51
Alaska	3.81	Pennsylvania	1.48
Washington	3.45	Florida	1.47
Iowa	3.23	West Virginia	1.47
Kansas	3.20	Arizona	1.33
Delaware	3.14	Colorado	1.21
Idaho	3.14	South Dakota	1.16
New Mexico	3.13	Ohio	1.13
Wisconsin	3.03	Virginia	1.13
Mississippi	2.98	Arkansas	1.02
Louisiana	2.92	Illinois	0.99
Utah	2.86	Maryland	0.96
North Carolina	2.49	Michigan	0.90
Hawaii	2.26	Maine	0.87
Oklahoma	2.21	Minnesota	0.80
New Jersey	2.12	California	0.72
Indiana	2.11	District of Columbia	0.35
New Hampshire	2.06	Texas	0.30
Georgia	1.95	Massachusetts	0.26
Montana	1.95	Missouri	0.26
South Carolina	1.79	New York	0.10
Alabama	1.77	Connecticut	0.01
Nevada	1.70		

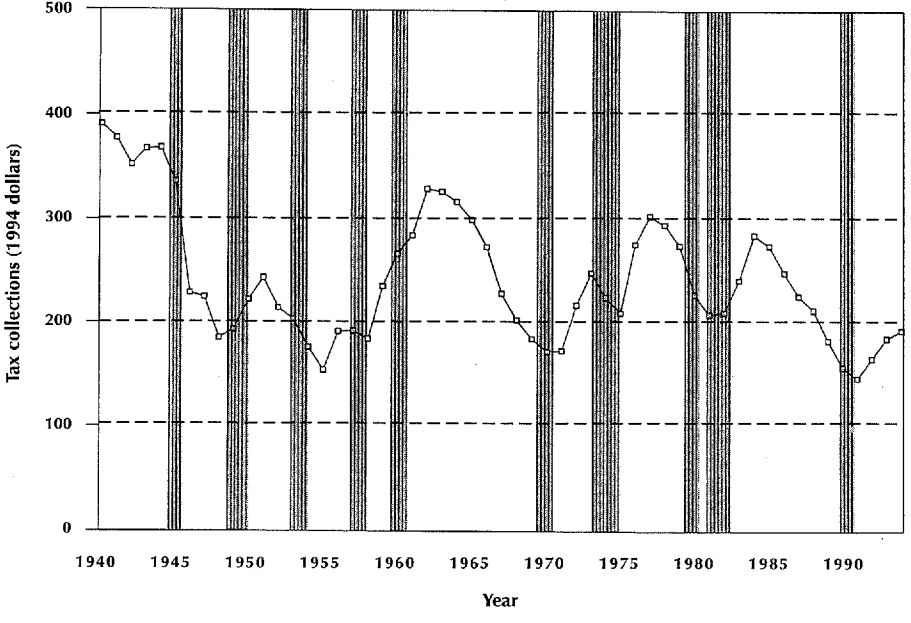
SOURCE: U.S. Department of Labor (1995c).

FIGURE C-5. Average Employer State Tax Rate (as a Percentage of Taxable and Total Wages), 1940-1994



SOURCE: U.S. Department of Labor (1995b).

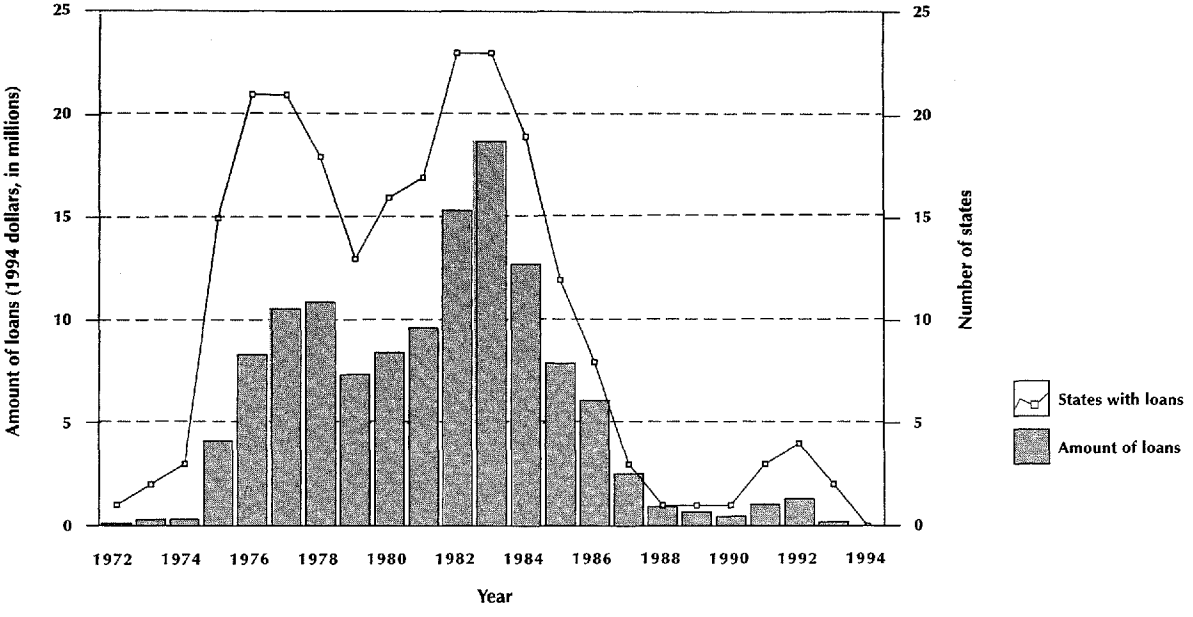
FIGURE C-6. State Unemployment Insurance Tax Collections per Worker, 1940-1994 (constant 1994 dollars)



NOTE: Shaded regions represent recession from peak to trough.

SOURCES: U.S. Department of Labor (1995d); U.S. Department of Labor, Bureau of Labor Statistics (1995a).

FIGURE C-7. Amount of Federal Loans and Number of States with Outstanding Loans, 1972-1994 (constant 1994 dollars)



SOURCE: U.S. Department of Labor (1995d).

Appendix D / Benefits: Background Figures and Tables

THIS COLLECTION OF FIGURES AND TABLES contains historic and state-by-state information related to Unemployment Insurance benefits and benefit claimants. Included are data on demographic characteristics of claimants, percentage of unemployed who are job losers, benefit recipiency rates, the ratio of UI claimants to job losers, duration of unemployment spells and benefit payments, the percentage of claimants who exhaust benefits, total UI benefits paid by program type, weekly benefit amounts, and selected eligibility requirements.

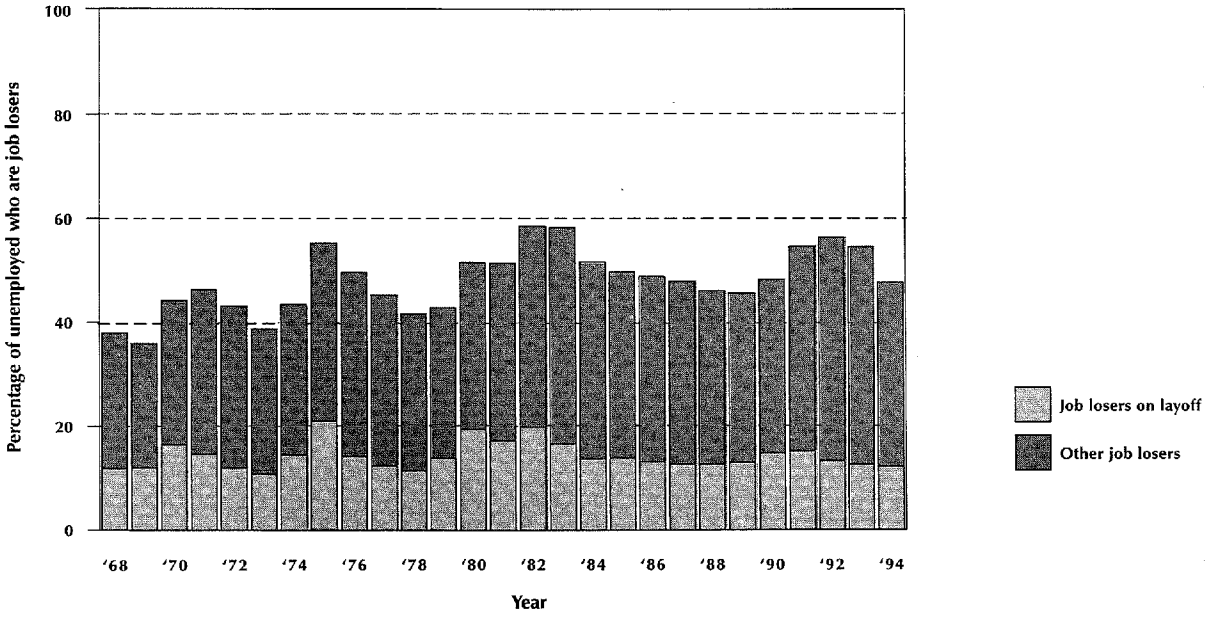
TABLE D-1. Demographic Characteristics of Civilian Labor Force, All Unemployed, and UI Claimants, 1994 (percent)

Characteristic	Civilian Labor Force	Total Unemployed	UI Claimants
Age			
16 to 34	43	60	42
35 to 54	45	32	48
55 and over	12	8	10
Gender			
Men	54	55	59
Women	46	45	41
Race			
White	85	74	N.A.
Black	11	21	N.A.
Other	4	5	N.A.

NOTE: "N.A." indicates data are not available.

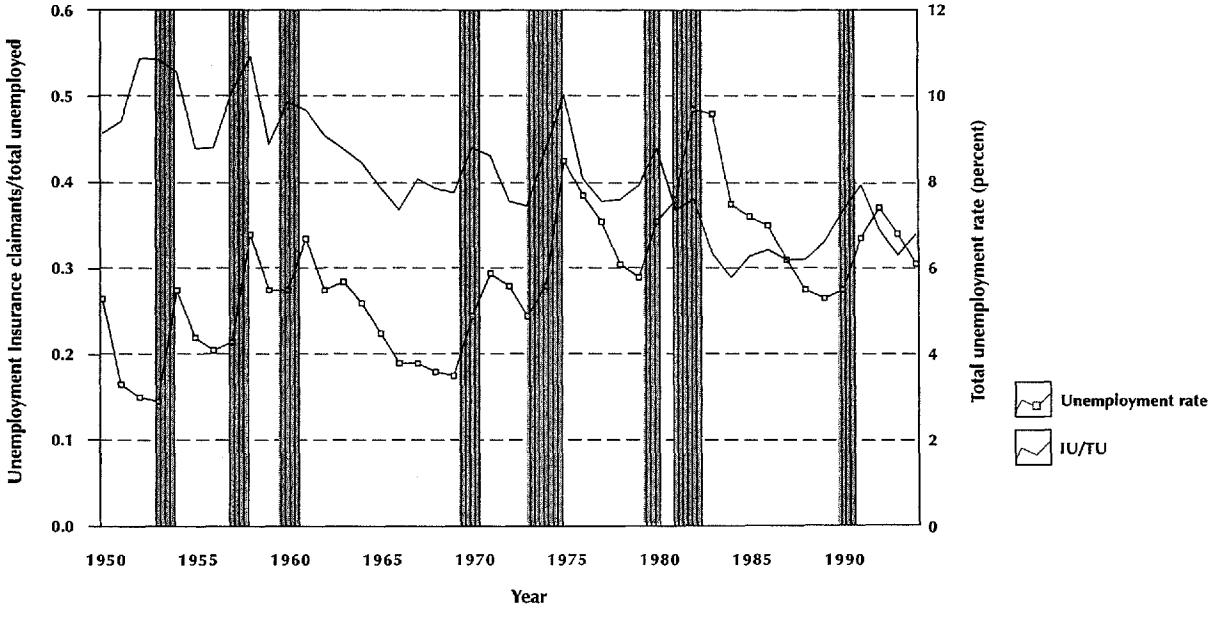
SOURCES: U.S. Department of Labor (1995b); U.S. Department of Labor, Bureau of Labor Statistics (1995a).

FIGURE D-1. Percentage of Unemployed Who Are Job Losers, 1968-1994



SOURCE: Council of Economic Advisors (1995).

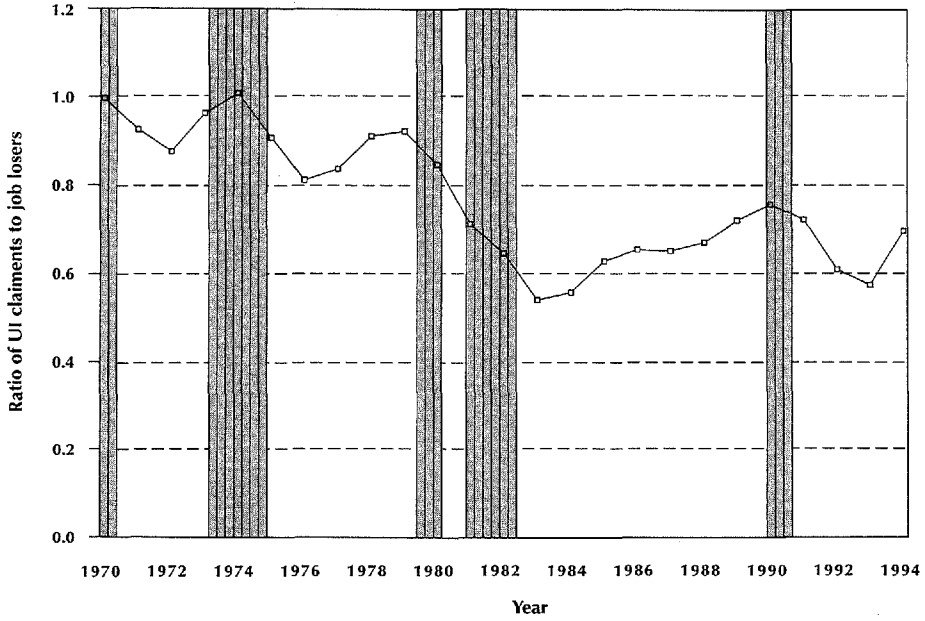
FIGURE D-2. Recipiency Rate for Regular State UI Programs and Total Unemployment Rate, 1950-1994



NOTE: Shaded regions represent recession from peak to trough.

SOURCES: Council of Economic Advisors (1995); U.S. Department of Labor (1995d).

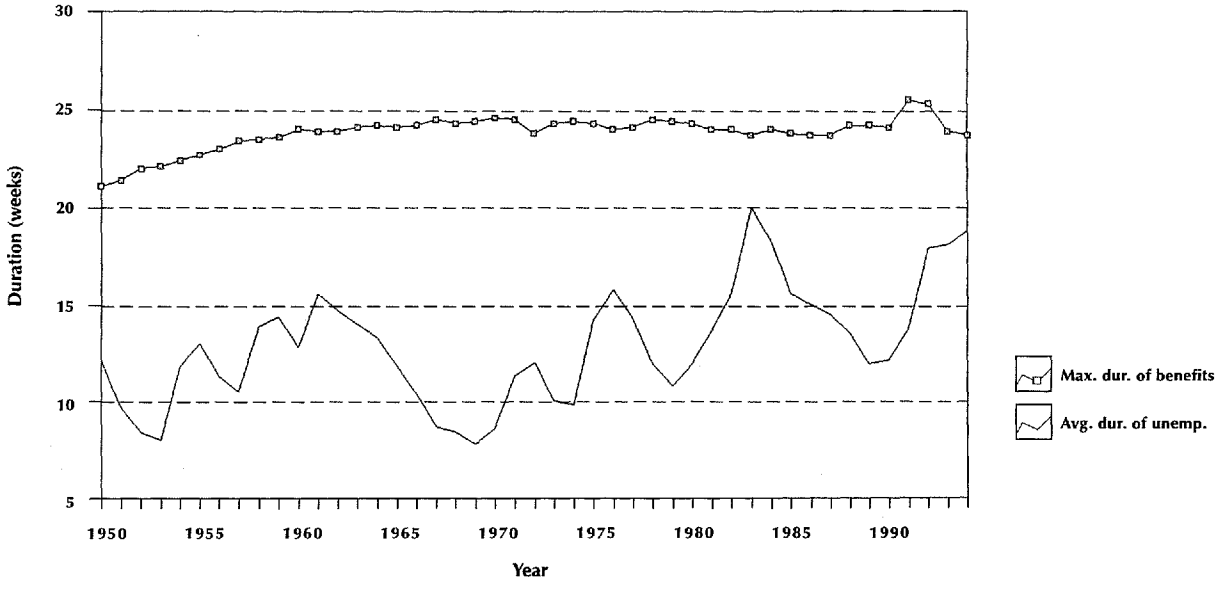
FIGURE D-3. Ratio of UI Claimants to Job Losers, 1970-1994



NOTE: Shaded regions represent recession from peak to trough. UI claimants include those in Federal and State Extended Benefit Programs but do not include these receiving benefits under any emergency programs.

SOURCE: Council of Economic Advisors (1995).

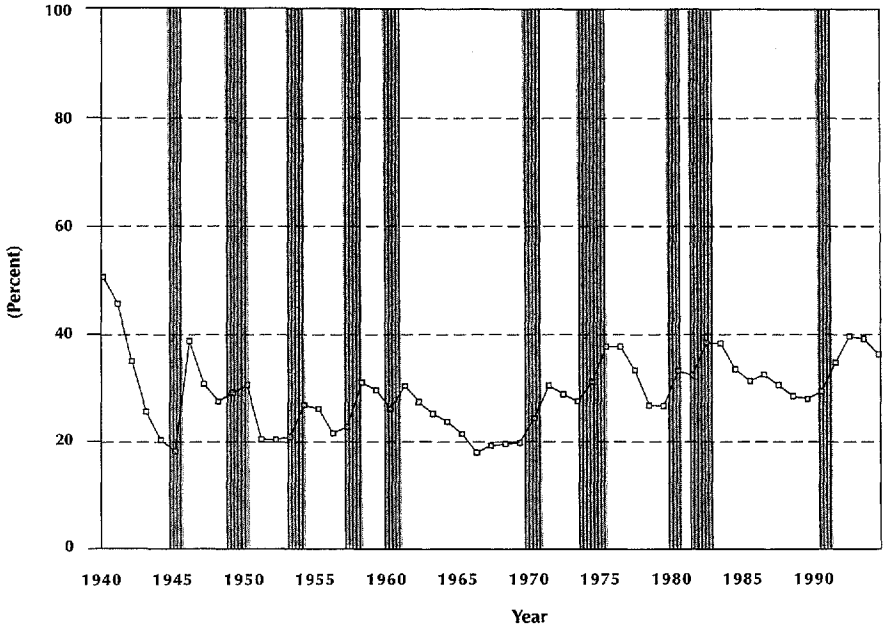
FIGURE D-4. Duration of Unemployment and Potential Duration of UI Benefits (in weeks), 1950-1994



NOTES: Lines denote the average duration of unemployment and the potential duration of benefits. The 1979 figure for duration of benefits was substituted for erroneous data.

SOURCES: Council of Economic Advisors (1995); U.S. Department of Labor (1995d).

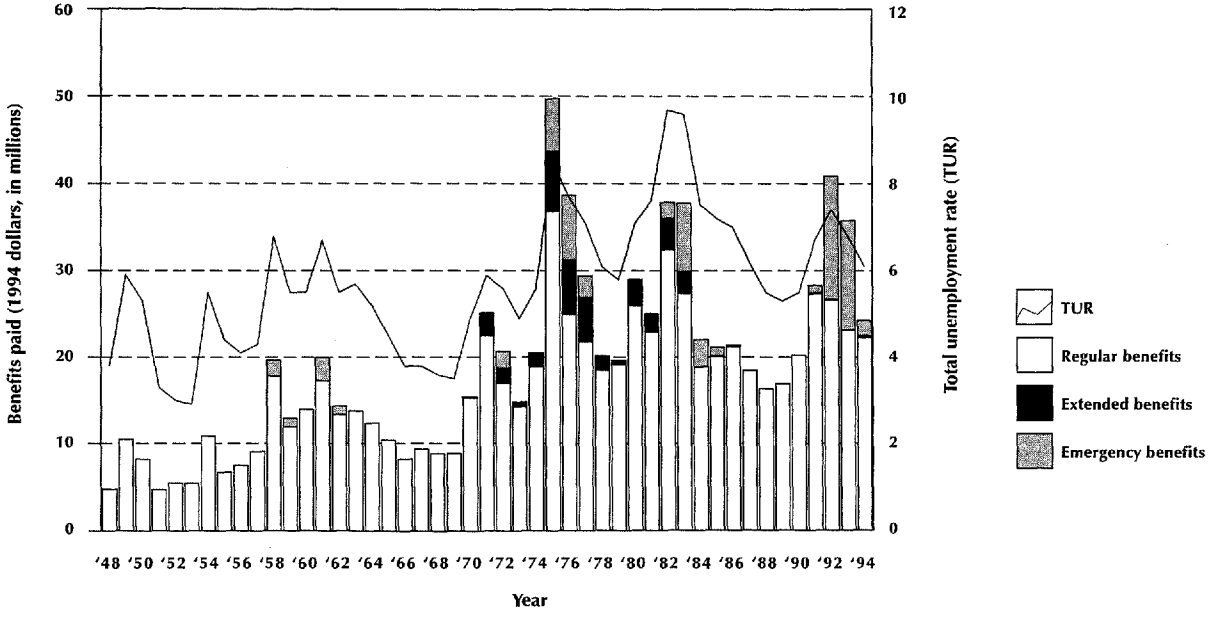
FIGURE D-5. Percentage of UI Claimants Exhausting Benefits, 1940-1994



NOTE: Shaded regions represent recession from peak to trough.

SOURCE: U.S. Department of Labor (1995d).

FIGURE D-6. Unemployment Insurance Benefits Paid, 1948-1994 (constant 1994 dollars)



SOURCE: U.S. Department of Labor, unpublished data.

TABLE D-2. Weekly Benefit Amount, by State, 1994

State	Weekly Benefit Amount (dollars)	State	Weekly Benefit Amount (dollars)
Hawaii	266	Florida	169
New Jersey	246	Virginia	169
Massachusetts	237	Oklahoma	168
Connecticut	222	Idaho	167
District of Columbia	220	West Virginia	167
Rhode Island	220	Vermont	164
Minnesota	217	Arkansas	161
Michigan	213	Maine	161
Pennsylvania	212	North Dakota	160
Washington	206	Kentucky	159
New York	203	Indiana	158
Illinois	199	Montana	156
Colorado	195	California	154
Kansas	192	South Carolina	154
Ohio	191	Georgia	153
Virgin Islands	191	Missouri	150
Wisconsin	188	Arizona	148
Utah	187	New Hampshire	146
Nevada	185	Tennessee	142
Texas	185	Nebraska	140
Delaware	183	New Mexico	140
Iowa	183	South Dakota	138
Maryland	180	Alabama	131
Oregon	179	Mississippi	129
North Carolina	175	Louisiana	118
Wyoming	173	Puerto Rico	89
Alaska	170		

SOURCE: U.S. Department of Labor (1995d).

TABLE D-3. Minimum Qualifying Requirements for Minimum Unemployment Insurance Benefits and Minimum Duration, by State, 1995

State	Required Earnings in Base Period	Minimum Work Required[a]	Minimum Benefits	
			Weekly Benefit Amount[b]	Number of Weeks[c]
Alabama	$1,032	X	$22	15+
Alaska	1,000	X	44 to 68	16
Arizona	1,500	X	40	12+
Arkansas	1,269	X	47[d]	9
California	1,125	—	40	14+
Colorado	1,000	—	25	13+
Connecticut	600	X	15 to 25	26
Delaware	0	—	20	24
District of Columbia	1,950	X	50	20
Florida	400	X	10	10
Georgia	1,350	X	37	9+
Hawaii	130	X	5	26
Idaho	1,430	X	44	10
Illinois	1,600	X	51	26
Indiana	2,750	X	87	8+
Iowa	1,155	X	33 to 40	11+
Kansas	1,950	X	65[d]	10
Kentucky	1,500	X	22	15
Louisiana	1,200	X	10	8
Maine	2,286	X	35 to 52	21+ to 22
Maryland	900	X	25 to 33	26
Massachusetts	2,000	—	14 to 21	10+ to 30
Michigan	1,340	X	42	15
Minnesota	1,250	X	38	10+
Mississippi	1,200	X	30	13+
Missouri	1,500	X	45	11+
Montana	1,356	X	57[d]	8
Nebraska	1,200	X	20	20
Nevada	600	X	16	12+
New Hampshire	2,800	X	32	26
New Jersey	2,520	X	75	15

(continued)

TABLE D-3. (continued)

State	Required Earnings in Base Period	Minimum Work Required[a]	Minimum Benefits	
			Weekly Benefit Amount[b]	Number of Weeks[c]
New Mexico	$1,334	X	$41[d]	19+
New York	1,600/1,200[e]	X	40	26
North Carolina	2,603	X	25	13 to 26
North Dakota	2,795	X	43	12
Ohio	2,640	X	66	20
Oklahoma	1,500	X	16	20+
Oregon	1,000	X	70[d]	4+
Pennsylvania	1,320	X	35 to 40	16
Puerto Rico	280	X	7	26
Rhode Island	1,780	X	41 to 51	15+
South Carolina	900	X	20	15
South Dakota	1,288	X	28	15+
Tennessee	1,560	X	30	12+
Texas	1,517	X	42	9+
Utah	1,800	X	17	10
Vermont	1,628	—	25	26
Virginia	3,250	X	65	12
Virgin Islands	1,287	X	32	13+
Washington	0	—	75[d]	16+ to 30
West Virginia	2,200	X	24	26
Wisconsin	1,500	X	50	12
Wyoming	1,700	X	16	12 to 26

SOURCE: U.S. Department of Labor (1995a, 3-27 to 3-29, 3-35 to 3-37, 3-45 to 3-47).

[a]An "X" indicates that a state directly or indirectly requires work in at least 2 quarters of the base year. States with a dash (—) have the minimum work requirement specified as an earnings amount.

[b]When two amounts are given, the lower amount is for a single individual and the higher amount includes dependents' allowances for 1 dependent child and/or nonworking spouse.

[c]A range of weeks is presented when the calculation for minimum weeks varies with qualifying earnings.

[d]Minimum benefit amount is computed annually as a percentage of average weekly wage.

[e]The higher amount resulting from two formulas is used to determine an individual's required base period earnings.

TABLE D-4. Qualifying Requirements for Maximum Potential Unemployment Insurance Benefits and Maximum Duration, by State, 1995

State	Required Earnings in Base Period	Maximum Benefits	
		Weekly Benefit Amount	Number of Weeks
Alabama	$14,039	$180	26
Alaska	22,250	212 to 284	26[a]
Arizona	14,429	185	26
Arkansas	20,592	264[b]	26
California	11,958	230	26[a]
Colorado	28,288	272[b]	26
Connecticut	13,400	335 to 385[b]	26[a]
Delaware	13,800	300[c]	26
District of Columbia	18,044	347[b]	26[a]
Florida	26,000	250	26
Georgia	23,318	205	26
Hawaii	8,944	344[b]	26[a]
Idaho	20,956	248[b]	26
Illinois	12,675	242 to 321[b]	26
Indiana	20,150	217	26
Iowa	17,472	224 to 274[b]	26
Kansas	20,280	260[b]	26
Kentucky	20,042	238[b]	26
Louisiana	17,428	181[b]	26
Maine	15,444	198–297[b]	26
Maryland	9,000	250	26
Massachusetts	28,000	336 to 504[b]	30
Michigan	15,651	293[b]	26
Minnesota	23,634	303[b]	26
Mississippi	14,040	180	26
Missouri	13,650	175	26
Montana	22,800	228[b]	26
Nebraska	14,352	184	26
Nevada	18,486	237[b]	26
New Hampshire	25,500	204	26
New Jersey	20,650	354[b]	26

(continued)

TABLE D-4. (continued)

State	Required Earnings in Base Period	Maximum Benefits	
		Weekly Benefit Amount	Number of Weeks
New Mexico	$8,883	$205[b]	26
New York	11,980	300	26
North Carolina	23,166	297[b]	26
North Dakota	20,218	243[b]	26
Ohio	12,740	245 to 328[b]	26
Oklahoma	16,055	247[b]	26
Oregon	24,080	301[b]	26[a]
Pennsylvania	13,520	340 to 348[b]	26
Puerto Rico	5,320	133[b]	26[a]
Rhode Island	23,480	324 to 404[b]	26
South Carolina	16,614	213[b]	26
South Dakota	14,040	180[b]	26
Tennessee	20,800	200	26
Texas	24,263	252	26
Utah	24,363	253[b]	26
Vermont	9,540	212[b]	26
Virginia	20,800	208	26
Virgin Islands	17,394	223[b]	26
Washington	31,500	350[b]	30
West Virginia	27,400	290[b]	26
Wisconsin	17,290	266	26
Wyoming	19,417	233[b]	26

SOURCE: U.S. Department of Labor (1995a, 3-35 to 3-37, 3-39 to 3-40, 3-45 to 3-47).

[a] Benefits are extended when the unemployment rate in the state reaches a specified level.

[b] Maximum benefit amount is indexed with the state average weekly wage.

[c] Maximum benefit amount varies with trust fund balance.

Appendix E / 1994 Findings and Recommendations

Note: The material contained in this appendix is reprinted from Chapter 2 of the first annual report of the Advisory Council on Unemployment Compensation, published in February 1994.

PURPOSE OF THE EXTENDED BENEFITS PROGRAM

Findings

The Council finds that the nature of unemployment has changed since the inception of the Unemployment Insurance system. The length of time that individuals are unemployed, which increases sharply during recessions, has also increased slowly but steadily during non-recessionary times. Workers who have been laid off from their jobs are now less likely to return to their previous jobs than has historically been the case. This indicates an increase in the level of long-term unemployment in the economy.

The Unemployment Insurance system was designed primarily as a means of alleviating the hardship caused by short-term unemployment. The system was never intended to combat long-term unemployment. The purpose of the Unemployment Insurance system, and in particular the Extended Benefits program, must be expanded if the system is to deal effectively with the changing nature of unemployment. In doing so, however, careful consideration must be given to the funding of the system, in order to ensure that expenditures for combatting long-term unemployment do not drain the Unemployment Insurance trust fund reserves. It must also be recognized that while Unemployment Insurance reform is a necessary component of developing effective

strategies for dealing with long-term unemployment, other reforms—especially among programs for dislocated workers—will be needed.

Recommendation

The scope of the Extended Benefits program should be expanded to enhance the capacity of the Unemployment Insurance system to provide assistance for long-term unemployed workers as well as short-term unemployed workers. Those individuals who are long-term unemployed should be eligible for extended Unemployment Insurance benefits, provided they are participating in job search activities or in education and training activities, where available and suitable, that enhance their re-employment prospects. To maintain the integrity of the Unemployment Insurance income support system, a separate funding source should be used to finance job search and education and training activities for long-term unemployed workers.*

THE TRIGGER FOR EXTENDED BENEFITS

Findings

The Council finds that receipt of Unemployment Insurance benefits by the unemployed has slowly but steadily declined since at least 1947—the first year for which data on the system are available. In addition to the long-term downward trend in receipt of benefits, there was a pronounced decline in the early 1980s, just as the economy entered a recession.

The reasons behind the decline in the Unemployment Insurance system are many. The long-term decline appears to have been caused by the changing demographics of the labor force, the changing industrial and geographic composition of employment, and a decline in the solvency of states' Unemployment Insurance trust funds. The sharp decline in receipt of benefits in the early 1980s appears to be attributable primarily to changes in federal policies which encouraged the states to increase the solvency of their trust funds by restricting eligibility for Unemployment Insurance benefits and/or increasing employers' tax rates, as well as independent state efforts to improve their trust fund solvency.

*One member of the Council emphasizes that an increase in employers' payroll taxes should not be used as the funding source. Another member emphasizes that such a recommendation must be considered in the context of reform of dislocated workers programs.

The utilization of the Unemployment Insurance system is measured by the Insured Unemployment Rate (IUR). The IUR is the number of Unemployment Insurance recipients, relative to the number of individuals in UI-covered employment. Since the inception of the Extended Benefits program in 1970, states have been required to use the state IUR as a "trigger" that determines whether or not individuals who have exhausted their regular UI benefits are eligible for Extended Benefits.

Research has shown that the decline in the utilization of the Unemployment Insurance system has caused the IUR to become a less reliable indicator of economic conditions, reducing the likelihood that Extended Benefits will trigger on in states with high unemployment. In addition, just as the IUR was experiencing a marked decline during the recession of the 1980s, the "trigger" level required to become eligible for Extended Benefits was raised. The combination of the reduction in the IUR and the increase in the trigger level resulted in the failure of the Extended Benefits program to trigger on as unemployment continued to rise during this most recent recession. As a result, Congress found it necessary to pass a series of emergency extensions of Unemployment Insurance benefits. The Council finds that emergency extensions of Unemployment Insurance benefits are extremely inefficient since they are neither well-timed nor well-targeted. Therefore, it is necessary to reform the Extended Benefits program prior to the onset of the next recession, in order to minimize the need for future emergency legislation.

The Council has considered a variety of measures that could be used to trigger the Extended Benefits program. While no perfect measures exist, the best available evidence about the condition of the overall labor market within a state is the Total Unemployment Rate (TUR), which indicates the supply of individuals who are unable to find work. It should be noted, however, that beginning in 1994, the TUR rates will be affected by the redesign of the Current Population Survey. An alternative measure of the labor market conditions that are faced by Unemployment Insurance recipients is the Adjusted Insured Unemployment Rate (AIUR), which is the IUR adjusted to include those individuals who have exhausted their regular Unemployment Insurance benefits.

The Council finds that while substate (or regional) data are available on some measures of local labor market conditions, these data are extremely unreliable measures of the true conditions that the unemployed face. Furthermore, there would be substantial administrative difficulties in using either substate or regional data for triggering Extended Benefits.

The Council finds that, in addition to problems with the triggers that have been used to determine whether or not Extended Benefits are available within a state, the thresholds built into the triggers have been problematic. These thresholds require that a state's unemployment rate (whether measured by the IUR or the TUR) exceed the level that prevailed over the previous two-year period (by a factor of 120 percent for the IUR or 110 percent for the TUR).

The threshold requirements do not significantly affect the number of states in which Extended Benefits trigger on during a recession. However, the thresholds have the effect of delaying the point at which Extended Benefits trigger on in some states with the highest unemployment, as well as hastening the point at which such states trigger off the Extended Benefits program. As a result, the thresholds have caused dissatisfaction among some with the operation of the program since those states suffering the most economic hardship are triggered on for the shortest period of time. This problem could be addressed by eliminating the thresholds and setting the triggers at a slightly higher level.

Recommendation

The Council is unanimous in the view that there is a pressing need to reform the Extended Benefits program.

The majority of the Council recommends that the Extended Benefits program should trigger on when a state's seasonally adjusted total unemployment rate (STUR) exceeds 6.5 percent as measured before the Current Population Survey redesign.* Two members of the Council recommend that each state should have the choice of using either the STUR trigger of 6.5 percent with a threshold requirement of 110 percent above either of the two previous years, or an IUR or AIUR trigger set at 4 percent with a threshold requirement of 120 percent over the previous two year period.

The Council hopes Congress can implement these reforms promptly. Although the Council has reservations about the inefficient targeting of emergency benefits, Congress should extend the existing Emergency Unemployment Compensation for a six month period to provide a bridge program until these Extended Benefits reforms can be implemented.**

*Two members of the Council recommend that the trigger should be set at 6.5 percent regardless of any changes in the measured unemployment rate that result from the redesign of the Current Population Survey.

**Two members do not agree to the recommendation that Emergency Unemployment Compensation should be extended.

Recommendation

Neither substate nor regional data should be used for the purpose of determining whether or not Extended Benefits are available within a given area.

FINANCING EXTENDED BENEFITS REFORM

Findings

The Council finds that the integrity of the Unemployment Insurance system as well as its capacity to adapt to the changing nature of unemployment are compromised by incorporating its trust funds into the unified federal budget. While the flow of funds into the Extended Unemployment Compensation account may be adequate to finance the recommended Extended Benefits reform, such reform is complicated by the use of dedicated Unemployment Insurance trust funds for the purpose of deficit reduction. Several members of the Council believe that prompt action should be taken to correct this situation. Other members feel that the issue of how trust fund accounts should be treated in the budget is a very complex one, and requires careful consideration within a broader context. The Council intends to revisit this issue in its future deliberations.

Recommendation

If additional revenue is required to implement the Council's recommendations, such revenue should be generated by a modest increase in the FUTA taxable wage base, to $8,500.*

WORK SEARCH TEST UNDER EXTENDED BENEFITS

Findings

The Council finds that another problematic aspect of the Extended Benefits program is the federal requirement that, with some exceptions, those individuals who are receiving Extended Benefits must accept a minimum wage job if one is offered, or become ineligible for benefits. While the Council understands that recipients of both regular and extended Unemployment Insurance benefits have an obligation to search actively for work and accept appropriate job offers, the Council finds the current federal requirements to

*Two members object to this recommendation.

be excessively onerous. All states use a "suitability" test to determine the jobs which claimants are required to accept to remain eligible for benefits. This test gives states the flexibility to ensure adequate work search by claimants, while protecting unemployed workers' living standards and job skills by permitting them to decline substandard jobs. The States are in a better position to determine appropriate mechanisms for enforcing a work search test, given the particular conditions of their labor markets.

Recommendation

The federal requirement that individuals who are receiving Extended Benefits must accept a minimum wage job if one is offered, or become ineligible for benefits should be eliminated. Each state should be allowed to determine an appropriate work search test, based on the conditions of its labor market.

STATE TRUST FUND SOLVENCY

Findings

The Council finds an overall decline in receipt of Unemployment Insurance benefits among the unemployed. This decline is at least partially caused by the inadequate reserves of many states' trust funds. During the past decade, many states with low or negative trust fund reserves have found themselves in the position of either having to increase taxes on employers in the midst of an economic downturn, or having to take measures to restrict eligibility and benefits for the unemployed. Some believe that this reliance on pay-as-you-go funding has worked to the overall detriment of the Unemployment Insurance system.

The Council believes that it would be in the interest of the nation to begin to restore the forward-funding nature of the Unemployment Insurance system, resulting in a building up of reserves during good economic times and a drawing down of reserves during recessions. The Council finds, however, that any move toward creating federal guidelines for states' Unemployment Insurance trust fund accounts must be carefully weighed. Otherwise, there will be a risk of creating undue incentives for the states to restrict the eligibility and level of Unemployment Insurance benefits in order to achieve the solvency guidelines. The Council intends to make specific recommendations on this issue in future reports.

FUTA TAXATION OF ALIEN AGRICULTURAL WORKERS

Findings

The Council was asked by Congress to consider the treatment of alien agricultural workers within the Unemployment Insurance system. Currently, the wages paid to alien agricultural workers with H2-A visas are exempt from the Federal Unemployment Tax Act (FUTA). This exemption is set to expire on January 1, 1995.

The Council finds that there are arguments both for and against continuing this exemption. Under the current exemption, alien agricultural workers are less costly to hire than domestic workers, on whom FUTA taxes must be paid. This cost differential may create an incentive for substitution of foreign workers for U.S. workers, which argues in favor of repeal of the exemption. Furthermore, the process of certifying workers and issuing H2-A visas imposes costs on the federal and state governments that have the responsibility for overseeing this process. The vast majority (97 percent) of the cost of the certification process is funded through the FUTA tax. Since FUTA serves as the mechanism for funding the costs of the certification process, there is an additional rationale for repealing the exemption of H2-A workers from FUTA taxation.

On the other hand, H2-A workers are ineligible to receive Unemployment Insurance benefits since their visas require that they return to their country of origin within ten days after their employment terminates. Consequently, these individuals cannot meet the "available for work" test of the Unemployment Insurance system. Thus, FUTA taxes would be imposed upon the wages of individuals who cannot receive Unemployment Insurance benefits, which argues against imposing the FUTA tax on their wages.

On balance, the Council finds that the arguments in favor of FUTA taxation of alien agricultural workers outweigh the arguments against continuing that exemption.

Recommendation

As of January 1, 1995, the wages of alien agricultural workers (H2-A workers) should be subject to FUTA taxes.

Appendix F / 1995 Findings and Recommendations

Note: The material contained in this appendix is reprinted from Chapter 2 of the second annual report of the Advisory Council on Unemployment Compensation (Unemployment Insurance in the United States: Benefits, Financing, and Coverage), *published in February 1995.*

THE PURPOSE OF UNEMPLOYMENT INSURANCE

The Advisory Council on Unemployment Compensation finds that, although an increasing percentage of the unemployed experience long spells of unemployment, the majority of the unemployed experience relatively short unemployment spells. Similarly, while a growing minority of individuals who receive Unemployment Insurance exhaust their benefits without having found new employment, the majority of individuals receive Unemployment Insurance benefits for a relatively short period of time before returning to employment. This reality dictates that the Unemployment Insurance system must be designed to deal effectively with a variety of needs. In particular, the system must both provide temporary wage replacement to individuals and facilitate the productive reemployment of those individuals who experience longer spells of unemployment.

The Unemployment Insurance system also serves an important macroeconomic stabilization role by injecting additional money into the economy during periods of downturn. This objective, however, can only be achieved effectively if the system is forward-funded, thereby accumulating funds during periods of economic health.

These findings lead the Council to a formulation of the following statement of purpose for the Unemployment Insurance system.

1. Statement of Purpose

The most important objective of the U.S. system of Unemployment Insurance is the provision of temporary, partial wage replacement as a matter of right to involuntarily unemployed individuals who have demonstrated a prior attachment to the labor force. This support should help to meet the necessary expenses of these workers as they search for employment that takes advantage of their skills and experience. Their search for productive reemployment should be facilitated by close cooperation among the Unemployment Insurance system and employment, training, and education services. In addition, the system should accumulate adequate funds during periods of economic health in order to promote economic stability by maintaining consumer purchasing power during economic downturns.

FUNDING OF THE UNEMPLOYMENT INSURANCE SYSTEM

The Unemployment Insurance system's capacity to promote economic stability rests on two key aspects of its funding mechanism. First, the funding of the system is "experience rated"—that is, employers who have been responsible for greater demands on the system pay higher taxes and consequently bear a greater share of the system's costs. Second, during periods of prosperity, the system accumulates reserves that are then spent during periods of economic decline.

Some members of the Council believe that experience rating is a crucial component of the program, providing effective incentives for employers to avoid laying off workers. Other members believe that experience rating causes employers to make excessive use of the system's appeal mechanism in an attempt to keep their experience-rated taxes as low as possible. Although the Council was unable to resolve this difference of opinion, it intends to address the issue of experience rating in its next annual report.

The Council unanimously concludes, however, that promoting economic stability is an objective that transcends the interests of the states and cannot be achieved by states working in isolation. While some states have attempted to maintain an adequate degree of forward funding, others have not. The low reserves in some states' trust funds weaken the Unemployment Insurance system's capacity to achieve its economic stabilization function.

Effectively promoting the forward funding of the Unemployment Insurance system requires a coherent federal strategy that includes congressionally stated goals.

2. Recommendation

Congress should establish an explicit goal to promote the forward funding of the Unemployment Insurance system. In particular, during periods of economic health, each state should be encouraged to accumulate reserves sufficient to pay at least one year of Unemployment Insurance benefits at levels comparable to its previous "high cost." For purposes of establishing this forward-funding goal, previous "high cost" should be defined as the average of the three highest annual levels of Unemployment Insurance benefits that a state has paid in any of the previous 20 calendar years.

To complement these forward-funding goals, financial incentives to encourage forward funding should be created. This can be done by changing the structure of the interest rates that the federal government pays to the states on their Unemployment Insurance trust fund balances. A slight reduction in the interest rate paid on low levels of states' trust funds could be used to finance a fairly substantial interest rate premium paid on high levels of reserves. While it is difficult to predict with accuracy how many states would respond to such incentives, careful management of the interest rate structure could ensure that these incentives could be financed without additional cost to the federal government.

3. Recommendation

To encourage further forward funding, an interest premium should be paid on that portion of a state's Unemployment Insurance trust fund that is in excess of one "high cost" year of reserves. The cost of this interest rate premium should be financed by a reduction in the interest rate paid on that portion of each state's trust fund that is less than one "high cost" year of reserves. The U.S. Department of Labor should be given authority to adjust periodically the interest rate structure to ensure that these incentives create no additional cost to the federal government.

The Council finds that the current federal policy of providing short-term, interest-free loans to state trust funds creates a disincentive for states to forward fund their systems. Preferential loan treatment should be available only to states that have met, or made satisfactory progress toward, the forward-funding goal. An example of how satisfactory progress might be defined is presented in Chapter 5 of this report.

4. Recommendation

Preferential interest rates on federal loans to the states should be restricted to those states that have achieved (or made satisfactory progress toward) the forward-funding goal. In particular, the current system of making interest-free, cash-flow federal loans generally available to all states should be ended. Rather, these interest-free loans should be made available only to those states that have achieved (or made satisfactory progress toward) the forward-funding goal prior to the onset of an economic downturn. In other states, these loans should be subject to the same interest charges that are incurred on long-term loans to state Unemployment Insurance trust funds.

5. Recommendation

A method is needed for determining whether a state that has not yet met the forward-funding goal has made "satisfactory progress" toward the goal. This method should be based on an empirical analysis of the rate at which state trust funds must be restored during periods of economic health in order to achieve the forward-funding goal prior to a recession.

6. Recommendation

When states have achieved (or made satisfactory progress toward) the forward-funding goal, yet find it necessary to borrow from the federal government, the interest rate charged on long-term loans should be a preferential rate that is 1 percentage point lower than would otherwise be charged.

The Council has discussed the level at which the taxable wage base and tax rate established by the Federal Unemployment Tax Act (FUTA) should be set. This is a complex issue. FUTA revenues are earmarked for financing the administration of the nation's Unemployment Insurance system, as well as that of the U.S. Employment Service. However, because the trust funds are currently held within the unified federal budget, it is not possible for these programs to achieve direct access to the funds that are earmarked for them. In addition, a two-tenths surcharge that was imposed in 1977 to pay off trust fund debts has been extended well beyond the time when the debt was repaid. Quite apart from these issues, the Council has not yet made a

determination of whether or not additional revenues from FUTA would contribute to more efficient and effective operation of the Unemployment Insurance system and the Employment Service.

Another element of complexity results from the fact that the minimum taxable wage base that the states use for financing their Unemployment Insurance benefits is tied to the FUTA taxable wage base. On average, those states with higher taxable wage bases have a higher level of reserves than do states that have set their taxable wage base at the minimum level of $7,000. Consequently, raising the FUTA taxable wage base might contribute to the overall forward funding of the system.

Furthermore, a low taxable wage base within a state tends to impose the burden of Unemployment Insurance payroll taxes disproportionately on employers of low-wage workers. To the extent that employers pass on a portion of the tax to their workers in the form of lower wages, therefore, a disproportionate share of the burden of the tax is ultimately borne by low-wage workers. Those low-wage workers who work part-time or part-year, however, are often ineligible for Unemployment Insurance. As a result, the low taxable wage base within the Unemployment Insurance system is both regressive and unfair.

The Council has not yet reached a consensus on how to address these interrelated issues most effectively. As it considers the issues of administrative funding and efficiency over the course of the next year, however, the issue of the FUTA taxable wage base and tax rate will once again be addressed.

The Council does note, however, that the Unemployment Insurance system was intended as a self-contained system of social insurance. Inherent in this design is the principle that funds are accumulated and held in trust solely for their intended purpose: namely, the payment of benefits to eligible unemployed workers, economic stimulus, and the costs of administering the system.

Inclusion of FUTA accounts and state Unemployment Insurance trust fund accounts within the unified federal budget undermines the integrity of the Unemployment Insurance system. Since federal budget offsets must be identified before additional FUTA funds (which are earmarked for program administration) can be appropriated, some states have found it necessary to divert their trust funds to pay for administrative expenses—expenses that should be paid out of the FUTA trust fund. This diversion, while perhaps necessary, tends to erode the integrity of the system's financing. Employer willingness to contribute to the system, state capacity to develop and maintain adequate trust funds, and worker confidence in the system are all undermined.

Furthermore, when Unemployment Insurance trust fund balances that have been explicitly accumulated for countercyclical purposes are used to balance the annual federal budget, the system loses its capacity to increase spending automatically during recessions. Consequently, unlike other trust funds held by the federal government, the Unemployment Insurance trust funds are rendered fundamentally incapable of achieving one of their major objectives—economic stabilization—through their inclusion in the unified federal budget.

7. Recommendation

All Unemployment Insurance trust funds should be removed from the unified federal budget.

UNEMPLOYMENT INSURANCE COVERAGE AND TAXATION

Virtually all wage and salaried workers are covered by Unemployment Insurance, and their employers pay taxes into the system accordingly. There are, however, two important exceptions. The first exception is that nonprofit employers do not pay FUTA taxes, despite the fact that their employees are eligible for Unemployment Insurance, use the system, and generate administrative costs for the system. In calendar year 1992, this exemption cost the federal trust funds approximately $300 million. The second exception is that agricultural workers on small farms are not covered by Unemployment Insurance. The Council finds no justification for either of these exceptions.

8. Recommendation

The FUTA exemption for nonprofit employers should be eliminated.

9. Recommendation

The exemption of agricultural workers on small farms from Unemployment Insurance coverage should be eliminated.*

The Council also finds that Unemployment Insurance taxes owed by farm labor contractors ("crew leaders") often are not paid. Federal law specifies that, under most circumstances, these farm labor contractors are the

*Two members of the Council object to this recommendation.

designated employers of their workers and that they are responsible for the payment of Unemployment Insurance taxes. It is difficult, however, to enforce this provision because of the many obstacles that prevent locating crew leaders who have outstanding tax obligations.

10. Recommendation

Federal law should be amended so that farm owners or operators are assigned responsibility for unpaid Unemployment Insurance taxes owed by the crew leaders with whom they contract for workers on their farms.*

The Council finds that some employers improperly avoid paying Unemployment Insurance taxes by misclassifying their employees as independent contractors. Clear definitions that delineate the conditions under which an individual would legitimately be qualified as an independent contractor would help to alleviate this problem.

Section 530 of the Revenue Act of 1978 protects businesses that have "reasonable basis" for misclassifying employees as independent contractors. Businesses that fall under the Section 530 "safe harbor" are not required to correct the classification of employees and cannot be assessed back taxes or penalties based on the misclassification of workers. Section 530 also prohibits the Internal Revenue Service (IRS) from clarifying the guidelines for determining whether a worker is an employee or an independent contractor. The ambiguity of these guidelines is the cornerstone of the misclassification problem and the tax revenue losses associated with it. In addition, revenue collection is limited by Section 3509 of the Internal Revenue Code, which caps the employment tax liability of those businesses not covered by Section 530.

The greatest revenue loss results from businesses that do not file information returns on independent contractors. These are circumstances under which businesses are most likely to misclassify workers, as well as the circumstances under which independent contractors are least likely to report their entire income. Increasing the penalty for failing to file information returns would increase the incentive to file, increase the percentage of independent contractor income reported, and provide the information needed to identify employers that misclassify workers—thereby creating an incentive to classify workers correctly.

*One member of the Council objects to this recommendation.

While the Council recognizes that correcting these problems would have ramifications that reach far beyond the Unemployment Insurance system, the Council finds that the problems are sufficiently serious to merit action at both the state and federal levels.

11. Recommendation

States should review and consider adopting the best practices of other states to address classification issues which include the following: clarifying the definitions of employee and independent contractor; specifying employer liability for payroll taxes; licensing, bonding, or regulating the employee leasing industry; and strategic targeting of audits.

12. Recommendation

Federal law should be amended to eliminate the "prior audit" safe harbor provision of Section 530 of the Revenue Act of 1978.

13. Recommendation

Federal law should be amended to eliminate the provision of Section 530 of the Revenue Act of 1978 that bars the IRS from issuing guidelines to define the employment relationship.

14. Recommendation

Federal law should be amended to repeal Section 3509 of the Internal Revenue Code and to require businesses to pay all taxes owed for workers that are misclassified after the enactment of the repeal.

15. Recommendation

The $50 penalty for businesses that fail to file information returns with the IRS or with the independent contractor they have hired should be increased.

The Council notes that available statistics do not accurately measure the level of Unemployment Insurance receipt among the unemployed (that is, "recipiency"). The measure of the "insured unemployed" (IU) and the ratio

of insured unemployed to the covered labor force (that is, the insured unemployment rate—the IUR) are frequently used for a number of purposes. When used as measures of recipiency, however, they are misleading. Both statistics consistently overstate the number of individuals who actually receive Unemployment Insurance benefits in a given week. In addition to counting recipients, the two measures both include individuals who file a claim for, but do not receive, benefits in a given week (these include individuals on a waiting week, individuals whose claims are ultimately denied for nonmonetary reasons, and individuals who are disqualified for a given week). At the national level, this inclusion has the effect of overstating the number of the unemployed who actually receive Unemployment Insurance benefits by approximately 10 percent (although there is considerable variation among the states in the extent to which currently reported statistics overstate the actual receipt of benefits).

16. Recommendation

The U.S. Department of Labor should report a measure of Unemployment Insurance recipiency. The measure should be a ratio, with the numerator defined as the number of individuals who are actually paid Unemployment Insurance benefits, and the denominator defined as the total number of unemployed individuals.

ELIGIBILITY FOR UNEMPLOYMENT INSURANCE BENEFITS

Five percent of all workers in 1993 reported that they were unable to find full-time employment, and 16 percent of the work force held part-time jobs. The Council finds that in some states, these individuals are unable to qualify for Unemployment Insurance benefits, even when they have substantial labor force attachment. This problem is especially pronounced for low-wage individuals, many of whom must work in temporary or part-time jobs. Welfare reform could result in an increase in the number of low-wage workers who find themselves in this situation.

Some unemployed workers are unable to qualify for Unemployment Insurance benefits because of their state's definition of the "base period." The base period is the period of time that is used for calculating whether or not unemployed individuals' earnings are sufficient to qualify them for Unemployment Insurance. Many states define the base period as the first four of the past five completed calendar quarters. In these states, therefore,

between three and six months of an individual's most recent work experience is excluded from consideration in calculating eligibility for benefits. This may have the effect of disqualifying some workers who have worked continuously, but who need the most recently completed quarter of earnings to be included in the base period in order to qualify for Unemployment Insurance benefits. To solve this problem, some states now use a "moveable base period," which allows the minimum earnings requirement to be met on the basis of the four most recently completed quarters of work if it is not met using the standard definition.

The Council finds that advances in technology have made it feasible for all states to use the most recently completed quarter when determining benefit eligibility, and that using this quarter is consistent with the legislative requirement that states ensure full payment of Unemployment Insurance when due. While the Council has been unable to develop sound estimates of the cost of implementing such a change, there are reasons to believe that the cost may not be prohibitive. First, many of the individuals who are determined to be eligible using a moveable base period would become eligible eventually (as soon as an additional quarter of earnings information becomes available). Second, some of the increase in the cost of Unemployment Insurance benefits would be offset by a reduction in benefits paid under means-tested programs, such as Aid to Families with Dependent Children (AFDC) and Food Stamps.

In some cases, unemployed individuals cannot qualify for Unemployment Insurance benefits because their eligibility is contingent upon their earnings in the calendar quarter in which they became unemployed. Information about their most recent earnings is typically not available until after the quarter has been completed. These individuals often do not realize that they can reapply (and often qualify) for benefits when information about their most recent quarter of earnings becomes available. This problem could be corrected if these individuals were told when they should reapply for benefits, as well as what additional earnings they would need to qualify for benefits.

17. Recommendation

All states should use a moveable base period in cases in which its use would qualify an Unemployment Insurance claimant to meet the

state's monetary eligibility requirements. When a claimant fails to meet the monetary eligibility requirement for Unemployment Insurance, the state should inform the individual in writing of what additional earnings would be needed to qualify for benefits, as well as the date when the individual should reapply for benefits.

In some states, low-wage workers face an additional impediment in qualifying for Unemployment Insurance benefits. In order to meet their state's base period and/or high-quarter earnings requirements, low-wage individuals must work more hours than workers who earn higher wages. For example, an individual who works half-time for a full year (i.e., 1,040 hours) at the federal minimum wage level would not meet minimum earnings requirements in 9 states. At an hourly wage of $8.00, however, a half-time, full-year worker would be eligible in all states. Similarly, an individual who works two days per week for a full year (approximately 800 hours) at the minimum wage would not meet the minimum earnings requirements in 29 states. At a wage of $8.00 per hour, however, that individual would be eligible in all but 2 states.

The Council finds that any individual who works at least 800 hours per year should be eligible for Unemployment Insurance benefits and that states' minimum earnings requirements should be set accordingly. If all states set their earnings requirements at this level, the number of individuals eligible for Unemployment Insurance benefits would increase by approximately 5.3 percent, and the amount of benefits paid would increase by approximately 3.6 percent. Some of the increase in the cost to the system, however, would be offset by a reduction in receipt of means-tested benefits such as AFDC and Food Stamps.

18. Recommendation

Each state should set its law so that its base period earnings requirements do not exceed 800 times the state's minimum hourly wage, and so that its high quarter earnings requirements do not exceed one-quarter of that amount.

Fourteen states preclude workers in seasonal industries from collecting Unemployment Insurance except during the season in which work is normally done within the industry. In addition, twelve of these states disallow seasonal workers' earnings from being counted toward their minimum earn-

ings requirement, even if the individual subsequently works in a nonseasonal job. The Council finds these exclusions to be problematic.

19. Recommendation

States should eliminate seasonal exclusions; claimants who have worked in seasonal jobs should be subject to the same eligibility requirements as all other unemployed workers.

In addition to the monetary requirements for qualifying for Unemployment Insurance, each state has a variety of nonmonetary requirements that unemployed individuals must satisfy in order to qualify for benefits. These requirements include stipulations about availability for suitable work, ability to work, work search requirements, voluntary separation for good cause, discharges due to misconduct, refusal of suitable work, and unemployment as a result of a labor dispute. In some cases, part-time workers (who meet monetary eligibility requirements) are explicitly precluded from receiving Unemployment Insurance.

20. Recommendation

Workers who meet a state's monetary eligibility requirements should not be precluded from receiving Unemployment Insurance benefits merely because they are seeking part-time, rather than full-time, employment.

State legislation often does not address the specifics of many of the situations that Unemployment Insurance claimants face. As a result, interpretations of nonmonetary eligibility requirements can also be found in administrative and judicial case law and administrative rules. Testimony presented in the Council's public hearings indicates that the complexity of these nonmonetary requirements creates confusion about eligibility requirements. It can be difficult for both claimants and employers to understand these requirements with a reasonable degree of certainty. These problems can be particularly pronounced for multistate employers.

Not only can this lack of certainty impede the receipt of Unemployment Insurance, it may also increase unnecessarily the number of appeals filed by both claimants and employers. These problems appear to be particularly severe with regard to determinations involving employee misconduct,

refusal of suitable work, and voluntary leaving for good cause. Clarifying these issues would serve the interests of both groups.

21. Recommendation

A state-specific information packet that clearly explains Unemployment Insurance eligibility conditions (both monetary and nonmonetary) should be distributed by the states to unemployed individuals.

The Council is particularly concerned about a number of specific nonmonetary eligibility conditions. For example, it is not always clear whether an individual who is unavailable for shift work (perhaps due to a lack of public transportation or child care) will be found to be eligible for Unemployment Insurance. Consideration needs to be given to situations in which individuals quit their jobs because of one of the following circumstances: a change in their employment situation (e.g., change in hours of work), sexual or other discriminatory harassment, domestic violence, or compelling personal reasons, including family responsibilities. In addition, the Council is concerned about the variability in the definition of misconduct across states, and about the treatment of individuals who refuse employment because it is temporary or commission work. The Council intends to address these and related issues in its third annual report.

ADEQUACY OF UNEMPLOYMENT INSURANCE BENEFITS

At the inception of the Unemployment Insurance system, much debate was devoted to the adequacy of benefits. Many of the founders of the system argued that benefits should replace 50 percent of lost earnings; they believed that this percentage was high enough to allow workers to purchase basic necessities, but not so high as to discourage prompt return to work.

A number of presidents, including and following Dwight Eisenhower, have endorsed a goal of 50 percent replacement of lost earnings within the Unemployment Insurance system. President Richard Nixon advocated that the Unemployment Insurance system should seek to replace 50 percent of lost earnings for four-fifths of all Unemployment Insurance recipients.

The level of a state's maximum weekly benefit amount has a direct impact upon the percentage of Unemployment Insurance recipients who receive benefits that equal or exceed a given replacement rate. Those individuals whose earnings qualify them for their state's maximum weekly ben-

efit amount typically have less than half of their wages replaced. Therefore, when a state's maximum benefit amount is relatively low as a percentage of the state's average weekly wage, the state will not meet the 50 percent replacement rate goal for a large percentage of recipients.

The Council endorses the long-standing goal of 50 percent replacement of lost earnings, and notes that a state is likely to be able to achieve this goal for a large number of workers by setting the state maximum weekly benefit amount equal to two-thirds of state average weekly wages.

22. Recommendation

For eligible workers, each state should replace at least 50 percent of lost earnings over a six-month period, with a maximum weekly benefit amount equal to two-thirds of the state's average weekly wages.*

The Council also notes that, starting in 1986, all Unemployment Insurance benefits became subject to taxation. Taxation of Unemployment Insurance benefits results in a reduction of the effective replacement rate.

23. Recommendation

Unemployment Insurance benefits should be tax-exempt.**

The Council finds that the current system for reporting the average replacement rate of lost earnings within the Unemployment Insurance system needs to be improved. While the U.S. Department of Labor routinely reports the replacement rate, the concept used in the calculation is flawed. The reported replacement rate is calculated by dividing Unemployment Insurance benefits paid by the wages of all covered workers. To the extent that those who receive Unemployment Insurance have lower wages than the average covered worker, the reported replacement rate will understate the actual replacement rate. Conversely, if those who receive Unemployment Insurance have higher wages than the typical covered worker, the reported replacement rate will overstate the actual replacement rate. Advisory Council calculations using data available from selected states suggest that the reported replacement rate significantly understates the actual replacement rate.

*One member of the Council objects to this recommendation.
**Four members of the Council object to this recommendation.

24. Recommendation

The U.S. Department of Labor should calculate and report the actual replacement rate for individuals who receive Unemployment Insurance. This replacement rate should be calculated by dividing the weekly benefits paid to individuals by the average weekly earnings paid to those individuals prior to unemployment.

REEMPLOYMENT INCENTIVES

The Council finds that financial incentives (such as reemployment bonuses or self-employment subsidies) for facilitating rapid reemployment have a positive impact on a small portion of the unemployed. In some cases, this positive impact could be offset partially by negative impacts on others who find jobs more slowly because they are displaced in the job queue by those who receive the incentives. This displacement effect is likely to be more pronounced during periods of relatively high unemployment.

The Council concludes, therefore, that the states should be permitted to experiment with reemployment incentives, but it opposes incentives to encourage (or require) states to implement such strategies.

Some members of the Council object to the use of self-employment incentives within the Unemployment Insurance system—especially when an individual's entire benefit is paid in lump-sum form.

25. Recommendation

States should be given broad discretion in determining whether reemployment incentives, such as reemployment bonuses or self-employment allowances, should be included as a part of their Unemployment Insurance systems.

ADMINISTRATIVE FINANCING

States' administrative costs are financed by the federal government with a portion of the revenues generated by FUTA. This situation requires some systematic method for allocating these revenues among the states. The Council finds that whatever method is chosen, it is important to create financial incentives for states to administer their Unemployment Insurance

systems efficiently. For example, those states that are able both to administer their Unemployment Insurance systems with less money than is allotted to them and to achieve U.S. Department of Labor performance requirements could be allowed to keep all or part of the surplus for other uses within their UI systems. The Council intends to address this issue, in conjunction with the U.S. Department of Labor's performance requirements, in its next annual report.

The U.S. Department of Labor has proposed an Administrative Financing Initiative (AFI) that would allocate FUTA funds based on a national unit cost with base-level and contingency-level funding. The Council takes no position on the AFI, because the U.S. Department of Labor and the states have not yet agreed on the details of this initiative.

The Council notes that it is inefficient for the federal government to require employers to fill out and submit separate forms and payments for their FUTA and state Unemployment Insurance taxes. Not only does this impose an unnecessary paperwork burden on employers, it also creates redundant tax collection units in the federal and state governments. The expense of collecting Unemployment Insurance taxes could be reduced by allowing the states to collect FUTA taxes on behalf of the federal government.

26. Recommendation

FUTA taxes should be collected with other Unemployment Insurance taxes by each of the states and submitted to the federal government for placement in the federal trust fund. States' Unemployment Insurance taxes should remain in the state trust funds, as is currently the case.

Appendix G / Charter

The Council's Official Designation

Advisory Council on Unemployment Compensation (hereinafter called "Council").

The Council's Objectives and the Scope of its Activity

It shall be the function of the Council to evaluate the unemployment compensation program, including the purpose, goals, countercyclical effectiveness, coverage, benefit adequacy, trust fund solvency, funding of State administrative costs, administrative efficiency, and any other aspects of the program and to make recommendations for improvement.

Period of Time Necessary for the Council to Carry Out its Purposes

Four years.

The Agency and/or Official to Whom the Council Reports

The President and the Congress.

The Agency Responsible for Providing the Necessary Support to the Council

The Unemployment Insurance Service of the Employment and Training Administration of the Department of Labor.

Membership

The Council shall consist of 11 members as follows:

(A) Five members appointed by the President, to include representatives of business, labor, State government, and the public.

(B) Three members appointed by the President pro tempore of the Senate, in consultation with the Chairman and the ranking member of the Committee on Finance of the Senate.

(C) Three members appointed by the Speaker of the House of Representatives, in consultation with the Chairman and the ranking member of the Committee on Ways and Means of the House of Representatives.

(D) The President shall appoint the Chairman of the Council from among its members.

(E) In appointing members under subparagraphs (B) and (C), the President pro tempore of the Senate and the Speaker of the House of Representatives shall each appoint—
  (i) one representative of the interests of business,
  (ii) one representative of the interests of labor, and
  (iii) one representative of the interests of State governments.

A Description of the Duties for Which the Council Is Responsible

It shall be the function of the Council to evaluate the unemployment compensation program, including the purpose, goals, countercyclical effectiveness, coverage, benefit adequacy, trust fund solvency, funding of State administrative costs, administrative efficiency, and any other aspects of the program and to make recommendations for improvement. Not later than February 1, 1995, the Council shall submit to the President and the Congress a report setting forth the findings and recommendations of the Council as a result of its evaluation of the unemployment compensation program, including the Council's findings and recommendations with respect to determining eligibility for extended unemployment benefits on the basis of unemployment statistics for regions, States or subdivisions of States.

The Estimated Annual Operating Costs in Dollars and Staff Years for Such Council

It is anticipated that expenditures will be approximately $1,200,000, including six FTEs.

The Estimated Number and Frequency of Committee Meetings

It is anticipated that the Council will meet five times during each year.

Termination Date

January 31, 1996.

Appendix H / Calendar

November 15, 1991	Establishment of Council by statute
January 24, 1992	Chartering of Council
May 11, 1993	*First Council Meeting* Washington, DC
September 20, 1993	*Public Hearing* Dallas, Texas
September 21, 1993	*Council Meeting* Dallas, Texas
December 9, 1993	*Council Meeting* Washington, DC
January 10, 1994	*Focus Groups of UI Claimants* San Francisco, California
January 11-12, 1994	*Council Meeting and Public Hearing* San Francisco, California
April 21-22, 1994	*Council Meeting and Public Hearing* Springfield, Oregon

June 16-17, 1994	*Council Meeting and Public Hearing* Portland, Maine
August 18-19, 1994	*First Council Research Conference* Portland, Maine
September 8, 1994	*Focus Groups of UI Claimants* New York, New York
September 8-9, 1994	*Council Meeting and Public Hearing* New York, New York
November 30- December 1, 1994	*Council Meeting and Public Hearing* Denver, Colorado
January 4, 1995	*Council Meeting* Washington, DC
March 30-31, 1995	*Legal Symposium* Ann Arbor, Michigan
April 5-6, 1995	*Council Meeting and Public Hearing* Detroit, Michigan
May 31-June 1, 1995	*Council Meeting and Public Hearing* Washington, DC
August 17-18, 1995	*Second Council Research Conference* Burlington, Vermont
September 13-14, 1995	*Council Meeting and Public Hearing* Charleston, South Carolina
December 13, 1995	*Final Council Meeting* Washington, DC

Appendix I / Public Hearings

THE ADVISORY COUNCIL has held nine sets of public hearings over the course of its three-year term in order to provide individuals and organizations with an opportunity to present their views and recommendations regarding the improvement of the Unemployment Insurance system. Members of the public were asked to address a variety of topics related to Unemployment Insurance.

More than 160 witnesses have presented testimony before the Council and more have submitted written statements. Both the hearings and the written statements have proven to be a rich source of information, providing many new perspectives on Unemployment Insurance issues. The Advisory Council expresses its appreciation to the members of the public who took the time to share their time and ideas with the members of the Council. These witnesses are listed below.

WITNESSES WHO PRESENTED TESTIMONY

Amanda Afton, Employers Unemployment Compensation Council, Michigan
Jonathan Baird, New Hampshire Legal Assistance
Michael Baker, South Carolina
Jim Barrett, Michigan State Chamber of Commerce
Milt Bartholomew, Douglas County Farmers Co-op, Oregon
Mary Frances Bartlett, Maine Welfare Directors Association
Robert Becker, Raff and Becker, New York
Lee Beyer, Oregon State Representative
Stephen Bingham, San Francisco Neighborhood Legal Assistance Foundation
Jon Bloom, Workers' Defense League, New York

Warren Blue, R. E. Harrington, Inc., Ohio
Malcolm Bonner, California
John Bourg, Louisiana AFL-CIO
Christopher Bowlin, National Association of Manufacturers, Washington, DC
Sandra Boynton, Maine
Deborah Bronow, State of California Employment Development Department
Keith Brooks, New York Unemployed Committee
Frederic Buse, New York Department of Labor, Unemployment Insurance
Albert Calille, Ameritech, Michigan
Sally Cansino, Oregon
Barry Cargille, Small Business Association of Michigan
Anthony Carnevale, National Commission on Employment Policy, Washington, DC
Don Carrington, John Locke Foundation, North Carolina
Larry Clark, Gibbens Company, Utah
Brenda Cochrane, San Francisco State University
Clarence Cooper, Suffolk University, Massachusetts
Leighanne Napua Cote, Maine
Jesse Damesworth, UAW, Michigan
John Davidson, Chrysler Corporation, Michigan
Gene Derfler, Oregon State Representative
Loleta Didrickson, Illinois Department of Employment Security
Sharon Dietrich, Community Legal Services, Pennsylvania
Mary Dirk, SEIU Local 31M, Michigan
John Dorrer, New England Training and Development Corporation, Massachusetts
Robert Du Val, Unemployment Cost Control, New Jersey
Robert Edwards, Michigan Employment Security Commission
Eunice Elton, Private Industry Council of San Francisco
Maurice Emsellem, National Employment Law Project, New York
Joan Entmacher, Women's Legal Defense Fund, Washington, DC
Ron Eskin, Merrimack Valley Legal Services, Massachusetts
James Evatz, JCPenney Company, Texas
Terry Evert, Gibbens Company, California
Arthur Fandel, New York State Advisory Council on Unemployment Insurance and Seneca Systems & Services
Gary Fitch, Agricultural Affiliates, New York
Lloyd Fleming, U.S. Department of Labor, Georgia

Irv Fletcher, Oregon AFL-CIO
Roger Gette, Legal Services of North Texas
Jeff Gilbert, Legal Assistance Foundation of Chicago
Mary Katherine Gillespie, California Rural Legal Assistance
Bruce Goldstein, Farmworker Justice Fund, Washington, DC
Edward Gorham, Maine AFL-CIO
David Gough, Gibbens Company, Colorado
Betty Graham, National Association of Unemployment Insurance Appellate Boards, Colorado
Wayne Graham, Oregon
John Gray, South Brooklyn Legal Services, New York
William Griffin, Employment Security Commission, South Carolina
Monica Halas, Greater Boston Legal Services
Maurice Hall, Sloan, Montgomery, Gregory & Hall, South Carolina
Gary Hanamoto, Oregon
James Handy, Maine State Senate
William Hannigan, Zagar, Inc., Ohio
Sandra Hansberger, Lewis and Clark Legal Clinic, Oregon
Katherine Hansen, National Association of Unemployment Insurance Appellate Boards, Michigan
Robert Harvey, California Unemployment Insurance Appeals Board
Christine Hastedt, Pine Tree Legal Assistance, Maine
Robert Haynes, Massachusetts AFL-CIO
James Holt, Labor Policy Association, Washington, DC
Charles Howarth, Council of State Chambers of Commerce, California
John Hudacs, New York State Department of Labor
John Humphrey, U.S. Department of Labor, California
Robert Hunter, National Association of Professional Employers Organizations, Virginia
Warren Hysell, Boise Cascade Corporation, Idaho
Peter Isberg, Automatic Data Processing, Inc., California
James Jackson, Texas Employment Commission
Thomas Jackson, California
Judy Johnson, State of Washington Employment Security Department
Preston Johnson, Employment Security Commission, North Carolina
Patrick Johnston, California State Senate
Keir Jorgensen, Amalgated Clothing and Textile Workers Union, AFL-CIO, New York
Bob Kenyon, U.S. Department of Labor, Texas

Richard King, Washington State Joint Legislative Task Force on Unemployment Insurance
Rena Kottcamp, Massachusetts Department of Employment and Training
Steven Kreisberg, American Federation of State, County, and Municipal Employees, Washington, DC
Yvonne Kroll, Job Service, North Dakota
Erik Lang, Colorado Rural Legal Services
Laurie Larrea, Private Industry Council of Dallas
Daniel G. LeBlanc, Virginia State AFL-CIO
Ed Leslie, U.S. Department of Labor, Washington State
Hui Lian Chen, Chinese Progessive Association Workers Center, Massachusetts
David Lien, San Francisco Department of Social Services
Leslie Linson, Legal Assistance Corporation of Central Massachusetts
Paul Lodico, Mon Valley Unemployed Committee, Pennsylvania
Steve Lund, Minnesota Employers Association
Tom Mahar, Monitor Sugar Company, Michigan
Larry Malo, State of Washington Employment Security Department
Walter Mankoff, New York State Advisory Council on Unemployment Insurance and International Ladies' Garment Workers' Union
Charles Marciante, New Jersey AFL-CIO
Rodolfo Mares, Jr., Legal Services of North Texas
Philip Martin, University of California at Davis
Pamela Mattson, Oregon Employment Department
Catherine McCuish, Greater Detroit Chamber of Commerce
William McGraw, Michigan AFL-CIO
Lorrie McKinley, Community Legal Services, Pennsylvania
Harold Meyer, Georgia-Pacific Corporation, Georgia
Eric Millage, Employers Unity, Colorado
Kathy Moore, Kennebec Valley Technical College, Maine
Martin Morand, Pennsylvania Center for the Study of Labor Relations
Suzanne Murphy, Unemployment Tax Control Associates, Massachusetts
Dave Murrie, Oklahoma Employment Security Commission
Irv Newhouse, Washington State Joint Legislative Task Force on Unemployment Insurance
Nils Nordberg, Massachusetts Department of Employment and Training
Larry Norton, Texas Rural Legal Aid
Margaret O'Riley, Michigan Business Ombudsman
Ellen Palmer, Lane Community College, Oregon

Diana Pearce, Women and Poverty Project, Washington, DC
Don Peitersen, Colorado Department of Labor and Employment
Manuel Perez, Oregon Legal Services
Marvin Perry, Rhode Island Department of Employment and Training
Christina Peters, Gates-McDonald and Company, Ohio
William Petz, USX Corporation, Pennsylvania
Ted Potrikus, Retail Council of New York
Donnie Potts, Texas
Fred Radtke, FAR Management, Michigan
Norman Raffael, The Weyerhauser Company, Washington State
Tom Rankin, California AFL-CIO
Cynthia Rice, California Rural Legal Assistance
Ted Roberts, Texas Association of Business
John Rooney, Jr., Jon-Jay Associates, Massachusetts
Carol Ross-Evans, California Tax Payers Association
Dominic Rotondi, New York
Harold Roy, Gallmeyer & Livingston, Michigan
Paul Rundle, Small Business Association of Michigan
Rashan Sanchez, San Francisco Department of Social Services
Scott Schapiro, The Frick Company, New York
Anthony Serrano, GC Services, California
Isaac Shapiro, Center on Budget and Policy Priorities, Washington, DC
Emmett Sheppard, Texas AFL-CIO
Bob Shiprack, Oregon State Representative
Charlotte Sibley, Farmworker Legal Services of New York
Gary Sorenson, Minnesota Department of Employment Security
Peter Sorenson, Oregon State Senate
Richard Stifter, General Motors Corporation, Michigan
Vernon Stoner, State of Washington Employment Security Department
Richard Studley, Michigan Chamber of Commerce
Keith Talbot, Camden Regional Legal Services, New Jersey
Steve Tegger, Oregon Workforce Quality Council
Gail Thayer, Maine Department of Labor
Liston Thomasson, Mississippi Employment Security Commission
David Tilton, Oregon Legal Services
Allan Toubman, Maine Department of Labor
Dale Tuvey, United Claims Management, Washington
Donald Vial, California Foundation on the Environment and the Economy
Judy Villa, BankAmerica Corporation, California

Don Villerejo, California Institute for Rural Studies
Richard Virgili, California
Eloise Vitelli, Maine Displaced Homemakers Program
Wayne Vroman, The Urban Institute, Washington, DC
John Watt, Oregon State Representative
Patricia Webber, Maine
Joseph Weisenburger, New Hampshire Department of Employment Security
Libby Whitley, American Farm Bureau Federation, Washington, DC
Jonathan Wilderman, Wilderman and Linnett, Colorado
Christine Worthington, Texas
Mary Ann Wyrsch, U.S. Department of Labor, Washington, DC
Stephen Yelenosky, Legal Aid Society of Central Texas
Rick Zimmerman, New York Farm Bureau
David Zurvalec, Michigan Manufacturers Association

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